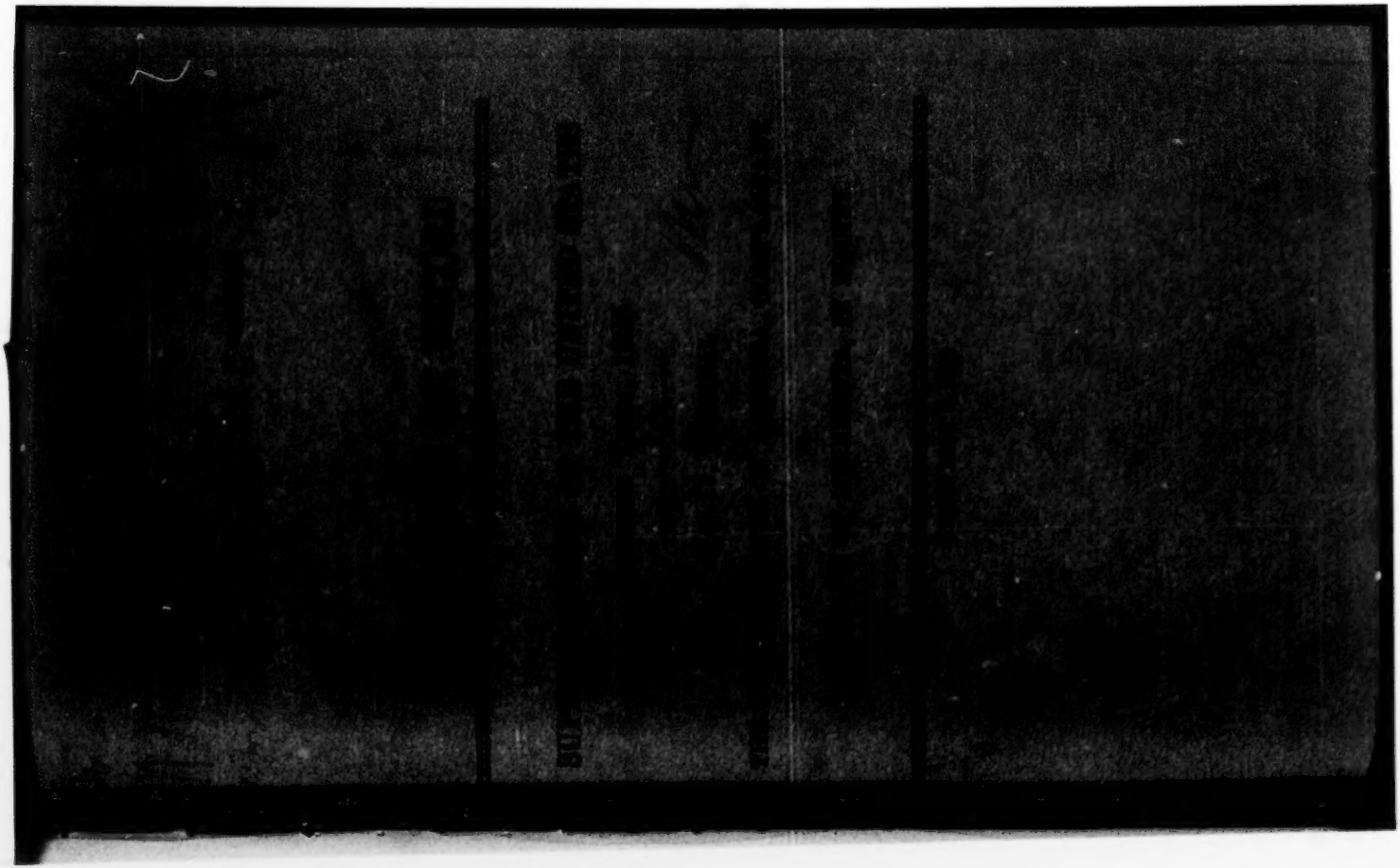

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1922

THE UNITED STATES OF AMERICA, COMPLAINANT

vs.

THE STATE OF MINNESOTA

APRIL 30, 1923. MOTION FOR LEAVE TO FILE BILL OF COMPLAINT SUBMITTED. ORDER GRANTING LEAVE TO FILE BILL OF COMPLAINT ENTERED MAY 7, 1923. LEAVE GRANTED TO FILE BILL OF COMPLAINT AND PROCESS ISSUED RETURNABLE ON MONDAY, OCTOBER 1, 1923.

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1 In the Supreme Court of the United States, October Term, 1922

THE UNITED STATES OF AMERICA, PLAINTIFF
v. No. —, Original
THE STATE OF MINNESOTA

Motion for leave to file bill of complaint

Filed May 7, 1923

Comes now the United States, by its Attorney General and its Solicitor General, and asks leave of the court to file its bill of complaint herewith submitted against the State of Minnesota.

HARRY M. DAUGHERTY,
Attorney General.
JAMES M. BECK,
Solicitor General.

2 [Title omitted.]

Bill of complaint

Filed May 7, 1923

The United States of America, by its Attorney General and its Solicitor General, brings this suit against the State of Minnesota and alleges and shows as follows:

I

1. On and long prior to the 22d day of February, 1855, the United States was the owner in fee simple of a great body of land lying in the northern, central, and western parts of the then Territory of Minnesota, and this land was occupied by the Mississippi, Pillager, and Lake Winnibigoshish Bands of Chippewa Indians, who had therein the full Indian right of occupancy and use. By a treaty made on February 22, 1855 (10 Stat. 1165), ratified by the Senate on March 3, 1855, and proclaimed by the President April 7, 1855, the said
3 three bands of Chippewa Indians, upon considerations named, ceded to the United States all their aforesaid lands, described by metes and bounds in Article I of the treaty, together with all their rights in and to any other land in that Territory; and by the same treaty (Art. II) there were reserved and set apart for the permanent homes of said Indians nine small reservations, described by metes and bounds, six of which were for the Mississippi band and three—lying, respectively, at Leech Lake, Cass Lake, and Winnibigoshish Lake—for the Pillager and Winnibigoshish Bands. The treaty further provided that at such time or times as the President might deem it advisable for the welfare of the Indians, or any of them, he should cause these reservations to be surveyed and should

then assign to each head of a family, or single person over twenty-one years of age, a reasonable quantity of land not to exceed 80 acres in any case.

No provision was made by this treaty for the removal of the Indians from the ceded lands to the small scattered reservations created by it, and by Article VII it was expressly provided that the laws of the United States prohibiting the introduction, manufacture, or use of liquors in the Indian country should continue in force throughout the ceded territory until otherwise provided by Congress, thus indicating an expectation that the Indians would continue in the occupancy of the ceded lands for an indefinite time then yet to come.

2. The nine small reservations set aside by the treaty of
4 1855 were, in fact, utterly inadequate for the reasonable needs and just requirements of the Indians. When the provisions of that treaty became generally known to the members of the three bands concerned there was great dissatisfaction among them, and a large volume of complaints, protests, and objections were made by them to the Commissioner of Indian Affairs, the Secretary of the Interior, and to other branches of the Government. The principal terms of the treaty were never, in fact, carried out. No allotments in the small reservations were ever made. The Indians never removed to them, nor was any order ever made for their removal thereto by the President or other officer of the Government; but, on the contrary, they remained in the occupation and use of the ceded territory to the same extent and in the same manner as before, and the Government acquiesced therein.

In the meantime Minnesota was admitted as a State of the Union (1858), and the swamp-land grant of 1850 (9 Stat. 519) was by act of Congress (1860) extended to her, with modifications (12 Stat. 3). The ceded lands, however, were and remained wholly unsurveyed, and no measures were taken, either by the State or the United States, to identify, segregate, or select the swamp lands embraced therein until long after they had again been set aside and reserved in part for the occupancy and use of the same Indians, as hereinafter set forth.

3. Pending the continuance of the conditions just described, the United States entered into further negotiations with the three
5 bands with a view to satisfying their just complaints and remedying the wrong done them by the treaty of 1855. These negotiations finally resulted in a new treaty, concluded at Washington, March 11, 1863, ratified March 13, 1863, with amendments, and proclaimed by the President March 19, 1863 (12 Stat. 1249).

By this treaty the United States, impliedly recognizing the inadequacy of the small reservations created by the treaty of 1855, accepted a cession of six of them, and again set aside and reserved, out of the territory ceded in 1855, one vastly larger reservation comprising several millions of acres, with boundaries described in Article II thereof, and including within its extensive borders Leech

Lake, Cass Lake, and Winnibigoshish Lake, and the three unceded small reservations lying thereon, respectively, each of which included a part of the lake on which it was situated.

4. The treaty of 1863 almost immediately proved to be defective or unsatisfactory, and was practically superseded by a new treaty concluded at Washington the following year, namely, on May 7, 1864, ratified, with an amendment, February 9, 1865, and proclaimed March 20, 1865 (12 Stat. 1249), by which the new reservation was further greatly enlarged by an extension of its western boundaries.

5. The treaty of 1864–65 in its turn failed to meet the needs of the situation. New negotiations were soon begun, resulting in a treaty concluded March 19, 1867, ratified with amendment April 8,
6 1867, and proclaimed April 18, 1867 (16 Stat. 719). This treaty contained the following preamble:

"Whereas by a certain treaty ratified March 20th, 1865, between the parties aforesaid, a certain tract of land was, by the second article thereof, reserved and set apart for a home for the said bands of Indians, and by other articles thereof provisions were made for certain moneys to be expended for agricultural improvements for the benefit of said bands; and whereas it has been found that the said reservation is not adapted for agricultural purposes for the use of such of the Indians as desire to devote themselves to such pursuits, while a portion of the bands desire to remain and occupy a part of the aforementioned reservation and to sell the remainder thereof to the United States; now, therefore, it is agreed, etc."

By Article I the Indians ceded a portion—estimated at 2,000,000 acres—of the enlarged reservation created by the treaty of 1864–65. This reservation, as thus reduced, included within its borders the three small reservations at Leech, Cass, and Winnibigoshish Lakes, and, otherwise, was comprised wholly of lands ceded by the treaty of 1855. As thus finally constituted it became known as the Leech Lake, or, more accurately, as the Leech Lake, Pillager, and Winnibigoshish Reservation.

In Article II of this treaty provision was made as follows:

"In order to provide a suitable farming region for the said
7 bands there is hereby set apart for their use a tract of land, to be located in a square form as nearly as possible, with lines corresponding to the Government surveys; which reservation shall include White Earth Lake and Rice Lake, and contain thirty-six townships of land; and such portions of the tract herein provided for as shall be found upon actual survey to lie outside of the reservation set apart for the Chippewas of the Mississippi by the second article of the treaty of March 20th, 1865, shall be received by them in part consideration for the cession of lands made by this agreement."

By Article VI the Secretary of the Interior was to designate one or more persons to cooperate with the agent of the Indians and their chiefs in locating as near as might be the new reservation provided for in Article II; which, being done, the Secretary was directed (Art. VII) to cause the same to be surveyed in conformity to the

system of public surveys, and provision was made for allotments according to a plan which would ultimately result in assigning to each Indian of the three bands 160 acres of land.

6. The approximate location of the new reservation was determined accordingly on or about December 23, 1867, and thereafter the Secretary caused the same to be surveyed, and the location and survey were finally approved by him between 1872 and 1875, the exact date not being at this time definitely ascertainable.

This reservation became known as the White Earth Reserva-
8 tion. It was comprised wholly of lands ceded to the United States by the treaty of 1855, except a small portion of the extreme northwest corner which had formerly belonged to the Red Lake and Pembina bands of Chippewas, and which was first ceded by them to the United States in 1863. It was in square form, contained thirty-six townships, and lay some distance west of the reduced Leech Lake, Pillager, and Winnibigoshish Reservation.

7. The Leech Lake, Pillager, and Winnibigoshish Reservation, as reduced by the treaty of 1867, was afterwards enlarged by four additions made to it by Executive orders of the President issued, respectively, on October 29, 1873, November 4, 1873, May 26, 1874, and May 26, 1874. These additions were composed wholly of lands ceded in 1855, again reserved in 1863 and 1864–5, and a second time ceded in 1867. This reservation, as thus finally constituted, and the White Earth Reservation, as established by the treaty of 1867, remained intact until January 14, 1889.

During all the changes in the reservations and their boundaries the Indians living upon, roaming over, and occupying the territory ceded in 1855 never removed, either voluntarily or otherwise, to the reservations thus successively created or delimited; nor was any order made by the President or other officer of the Government for their removal thereto. But, on the contrary, they remained in the occupancy and use of the lands ceded in 1855, including the
9 patented lands hereinafter described, to the same extent and in the same manner as before. But after the two large reservations were finally constituted, as above set forth, the Indians not already there established were removed thereto (excepting the Mille Lac group); and measures were then taken looking to the allotment of some of these reservation lands to individual Indians.

8. On January 14, 1889, Congress passed a comprehensive act for "the relief and civilization of the Chippewa Indians in the State of Minnesota" (25 Stat. 642). This act directed the President to appoint commissioners to negotiate with all the bands of Chippewa Indians in the State of Minnesota for the complete relinquishment of all their title and interest in and to all their reservations in Minnesota except the White Earth and Red Lake Reservations—the latter being a large reservation in the northern part of the State belonging to the Pembina and Red Lake bands—and to all and so much of those two reservations as, in the judgment of the commission, was not required to make and fill the allotments required "by

this and existing acts," the said relinquishment to be " for the purposes and on the terms hereinafter stated."

The cessions and relinquishments of the different bands were to be obtained in a manner specified by the act, and it was further declared that the acceptance and approval of such cessions and relinquishments by the President should operate as a complete extinguishment of the Indian title " for the purposes and upon
10 the terms in this act provided." The terms and purposes of the act were then, in substance and effect, declared to be (§ 3) that all the Chippewa Indians in the State of Minnesota, except those on the Red Lake Reservation, should be removed to the White Earth Reservation and there should receive allotments of land as prescribed; and (§ 4) that " the lands so ceded " should be surveyed, and thereafter examined, in 40-acre tracts, and separated or divided into " pine lands " and " agricultural lands," the pine lands to be appraised and sold at public auction for cash, etc. (§ 5); and the agricultural lands to be disposed of under and in conformity with the homestead laws, the settlers paying therefor, however, at the rate of $1.25 per acre (§ 6); and (§ 7) all the moneys accruing from the disposal of both classes of lands, after deducting expenses, were to be deposited in the Treasury of the United States to the credit of the Chippewa Indians, to draw interest at five per cent, the same to be expended solely for the benefit of the Indians.

The commissioners appointed under this act promptly determined that four townships lying on the eastern side of the White Earth Reservation were not required for purposes of allotment, and thereafter and at various dates during the year 1889, cessions were obtained from all the Chippewa bands in Minnesota in the manner prescribed by the act of January 14, 1889, and for the purposes and subject to the terms and conditions expressed in it, and the same were approved by the President on March 4, 1890. These
11 cessions included the four townships, the whole of the Leech Lake, Pillager, and Winnibigoshish Reservation, and other lands not material in this connection.

9. Thereafter, in due course, surveys were commenced and prosecuted as prescribed by the act of 1889, and examinations were begun for the purpose of dividing the ceded lands into " pine lands " and "agricultural lands," and for the purpose of continuing and completing the allotment of that part of the White Earth Reservation which was not ceded.

10. And plaintiff says that it was the true and manifest intent and meaning of the treaties of 1863, 1864–5, and 1867 that all the lands of whatever kind or character—swamp as well as dry—which were included within the boundaries of the reservations thereby constituted and within the boundaries of the new White Earth Reservation created by and pursuant to the treaty of 1867, should be for the sole and exclusive use and occupation of the Indians; and that it was the true and manifest intent and purpose of the act of 1889 and

the cessions made pursuant to it, that all the lands thereby ceded (including those added by the executive orders aforesaid), both swamp lands and dry lands, were to be held by the United States in trust and administered and disposed of, as in that act provided, for the sole and exclusive benefit of the Indians; and that all the lands retained within the White Earth Reservation for the purposes of continued use and occupation and final allotment, both
12 swamp lands and dry lands, were to be held in trust by the United States for those purposes and no others.

11. After the approval by the President of the cessions of 1889, the State of Minnesota made and prosecuted before the Commissioner of the General Land Office, and finally before the Secretary of the Interior, a claim to the swamp lands comprised within the former boundaries of the reservations ceded by the Indians under and pursuant to the act of 1889 and also in that portion of the White Earth Reservation retained for the purpose of ultimate allotment, basing the said claim upon the act of Congress of March 12, 1860 (12 Stat. 3), extending the swamp land act of 1850 to the States of Minnesota and Oregon, with certain provisions and exceptions and on certain terms and conditions not contained in the original act of 1850. And the Secretary of the Interior, without any authority or warrant of law, by manifest error and mistake, recognized the said claim, and without any power, authority or warrant of law, proceeded conjointly with the authorities or agents of the State of Minnesota to identify and segregate the swamp lands therein; and thereafter, by mistake and error, and without authority of law, issued from time to time patents to the State of Minnesota for the lands so ascertained to be swampy in character, notwithstanding that the lands so patented were then the lands of the Indians held in trust by the United States to be administered for their sole and exclusive benefit.

13 12. The said patents were issued as follows:

Patent No. 112, dated May 17, 1900, for 11,093.14 acres of White Earth Reservation lands ceded in 1889 (lying in the four townships), the same being issued upon approved list No. 115, Crookston;

Patent No. 189, dated December 13, 1909, for 11,413.30 acres of Chippewa of the Mississippi and White Oak Point lands (ceded in 1889), issued upon approved list No. 188, Cass Lake;

Patent No. 194, dated December 27, 1910, for 59,107.69 acres of Leech Lake, Chippewa of the Mississippi, and Winnibigoshish lands (ceded in 1889), issued upon approved list No. 193, Cass Lake;

Patent No. 195, dated March 27, 1911, for 31,213.74 acres of Chippewa of the Mississippi, Leech Lake, and Winnibigoshish lands (ceded in 1889), issued upon approved list No. 194, Cass Lake;

Patent No. 197, dated March 30, 1911, for 13,937.87 acres of unceded White Earth lands, issued upon approved list No. 196, Crookston;

Patent No. 199, dated June 10, 1912, for 25,358.44 acres of Chippewa of the Mississippi, Leech Lake, and Winnibigoshish lands (ceded in 1889), issued upon approved list No. 198, Cass Lake; comprising in all 152,124.18 acres.

The lands which the foregoing patents purport to convey are described for convenience in Exhibit A hereto attached and made part hereof, the descriptions embodied in each patent being
14 given separately under the appropriate heading and in the terms of the patent itself.

13. The three small reservations created by the treaty of 1855 and lying at Leech Lake, Cass Lake, and Winnibigoshish Lake, remained wholly intact up to the time of the final cession under the act of 1889, being simply included bodily within the out boundaries of the enlarged Leech Lake, Pillager, and Winnibigoshish Reservation created or delimited by the treaties of 1863, 1864–65, and 1867; and among the lands erroneously patented to the State by one or more of the patents above described there were included 706 acres lying within these three small reservations, and the same are listed and described in Exhibit B hereto attached and made a part of this bill.

14. The defendant has cut, sold, and disposed of and is now cutting, selling, and disposing of large quantities of timber from the Indian lands erroneously patented to her, especially from the ceded lands of the Leech Lake Reservation, and has appropriated and is appropriating the proceeds thereof to her own use and benefit; and is arranging and preparing to cut and dispose of additional quantities of such timber and will continue to cut and dispose thereof to the irreparable damage of the plaintiff and its Indian wards, unless restrained by an injunction issuing from this court.

Plaintiff is unable to state the amount or value of the timber thus far cut and disposed of, or to specify more particularly the
15 times and places of such cuttings, and therefore calls upon the defendant for a complete and detailed disclosure of the times, places, and quantities of such cuttings and the amounts of money received for the timber and lumber sold.

II

1. Plaintiff further says that the Mille Lac Reservation, being one of the small reservations set apart by the treaty of 1855, remained in the possession, occupancy, and use of the Mille Lac band or group continuously, without change of status, until the treaties of 1863 and 1864–65. By those treaties the Indians ceded that reservation to the United States, with a proviso, however (Art. XII), "That, owing to the heretofore good conduct of the Mille Lac Indians, they shall not be compelled to remove so long as they shall not in any way interfere with or in any manner molest the persons or property of the whites." They remained in possession of their reservation until the act of 1889, claiming a right to its continued occupancy and use so long as they did not mol st or interfere with

the persons or property of the whites. On the passage of the act of 1889, they again ceded their reservation and expressly assented to the provisions of that act.

It was subsequently decided by the Supreme Court of the United States that the lands thus a second time ceded, except such as were embraced in valid preemption and homestead entries, were subject to disposition for the benefit of the Indians under the
16 act of 1889. United States *v.* Mille Lac Indians, 229 U. S. 498.

2. The Mille Lac Reservation, never having been ceded at all prior to the swamp-land grant to Minnesota, was wholly and expressly excepted therefrom by the provisions of the granting act; but, nevertheless, in 1871 the Secretary of the Interior, through mistake and inadvertence, issued a patent to the State of Minnesota which included 701.55 acres of alleged swamp land lying within that reservation. This patent (No. 4) was dated May 13, 1871, and was issued upon approved list No. 3, Taylor's Falls, and the reservation lands which it purported to convey are described in Exhibit C attached hereto and made a part hereof.

3. In September, 1871, the Secretary of the Interior, becoming aware of his mistake, called upon the Governor of Minnesota by letter to reconvey to the United States the lands so patented. The demand was not complied with, and was again made by letter of July 15, 1915, but without result.

III

Plaintiff further alleges as follows:

1. By the act extending the swamp-land grant to the States of Minnesota and Oregon, it was expressly made one of the terms and conditions of the grant that selections of swamp lands from lands already surveyed at the date of the granting act should be made by the said States within two years from the adjournment
17 of the legislature of each State at its next session after the date of the granting act; and as to all lands thereafter to be surveyed, within two years from such adjournment, at the session next ensuing after notice by the Secretary of the Interior to the Governor of the State that the surveys had been completed and confirmed.

2. The State of Minnesota did not select any of the lands patented to her, as set forth in Paragraphs I and II hereof, within two years from the adjournment of the State legislature at its next session after the date of the granting act; nor did it select any of said lands that were surveyed after the date of the granting act within two years from the adjournment of the legislature at its next session after notice by the Secretary of the Interior to the governor that such surveys had been completed and confirmed, although notice of the completion and confirmation of such sur-

veys was in each instance duly and promptly given by the Secretary to the governor.

And plaintiff says that the Secretary had no authority, power, or discretion to waive on behalf of the United States the requirement of selection by the State within the times limited by the granting act; yet, unmindful of the neglect and failure of the State to make the selections within the times prescribed, the Secretary of the Interior, through error, mistake, or inadvertence, issued the patents as hereinbefore set forth.

18 IV

Plaintiff further alleges as follows:

1. By the general swamp-land granting act of 1850, the terms and conditions of which in that regard were extended to Minnesota and Oregon without change or modification, the swamp lands were granted for the express purpose of enabling the States to construct the necessary levees and drains to reclaim the swamp lands therein; and by the section of that act it was expressly required "that the proceeds of said lands, whether from sale or direct appropriation in kind, shall be applied exclusively, as far as necessary, to the purpose of reclaiming said lands by means of levees and drains aforesaid."

2. And plaintiff in that behalf alleges as follows:

The State of Minnesota has never used or applied any of the lands patented to her, as hereinbefore set forth, to the drainage or the construction of drainage works for the reclaiming of the swamp lands within her borders, and has not applied any part whatever of the proceeds of said lands, either from sale or by direct appropriation in kind, to the drainage of swamp lands; but, on the contrary, by an amendment to her constitution, adopted November 8, 1881, declared and provided as follows:

"The principal of all funds derived from sales of swamp lands, as aforesaid, shall forever be preserved inviolate and undiminished.

One-half of the proceeds of said principal shall be appro-
19 priated to the common-school fund of the State. The remaining one-half shall be appropriated to the educational and charitable institutions of this State, in the relative ratio of cost to support said institutions."

Minnesota Statutes, 1894, p. XCIII.

3. Plaintiff is informed and believes that the State of Minnesota has sold to private purchasers a considerable portion of the lands patented to her, as hereinbefore alleged, and has disposed of all the proceeds of such sales as directed by the said constitutional amendment, and has thus wholly diverted the said lands and their proceeds from the uses and purposes for which the grant was made by the United States, and in direct violation of the express terms and conditions of the granting act.

Plaintiff, however, is without definite knowledge as to the quantities or the particular tracts disposed of or the terms and conditions

of such disposals, and it therefore calls upon the defendant for a full disclosure in these regards.

V

Before or about the time of the issuance of the last of the patents enumerated in Paragraph I hereof (June 10, 1912), various controversies arose between the Department of the Interior and the governor and other officials of the State of Minnesota as to the right of the State to some of the swamp lands patented to her, as to her right to have patents issued for additional swamp lands claimed in her behalf, and as to her failure to comply, in respect to the
20 lands already patented, with the conditions of the swamp-land acts. Because of these controversies the Secretary of the Interior, on or about November 19, 1913, directed the Commissioner of the General Land Office to wholly suspend the issuance of swamp-land patents to the State, and at the same time notified the governor thereof. Since that time no additional patents have been issued to her.

On or about July 14, 1915, the Secretary of the Interior, by a letter addressed to the governor of the State, made a formal demand for the reconveyance of several hundred thousand acres of swamp lands which he claimed had been erroneously patented to the State under the swamp-land grant; but no reconveyance has ever been made. From that time on and up to about June, 1922, negotiations were carried on continuously between the Secretary of the Interior and the governor and other State officials for an amicable adjustment and settlement of these controversies without resort to the courts, but all such negotiations have come to naught.

Wherefore plaintiff prays:

1. That unless the defendant, upon the filing of this bill, shall voluntarily desist from the further cutting and removal of timber, then, upon proper application therefor by plaintiff, an injunction may be issued restraining the defendant pending the final determination of this cause from cutting, selling, or disposing of any timber now growing or being on any of the lands described herein.

2. That all the patents listed in Paragraph I hereof be
21 wholly cancelled and annulled as to all the lands described therein which the defendant has not sold or disposed of; and that the patent mentioned in Paragraph II hereof be cancelled and annulled as to the lands described in Exhibit C which the defendant has not sold or disposed of; and that all the lands not sold or disposed of be adjudged and decreed to be vested in the United States free and clear from any claims whatsoever of the defendant; and that said lands be further adjudged and decreed to be held by the United States in trust for the Chippewa Indians of Minnesota, to be administered and disposed of for their benefit under and in accordance with the act of Congress of January 14, 1889, and any amendments thereto.

3. That as to all the lands herein described, which the defendant has sold or disposed of, it be ordered, adjudged, and decreed that the defendant pay over to the United States, for the benefit of the Indians, the full value thereof.

4. That it be further ordered and decreed that the defendant pay over to the United States, for the benefit of the Indians, the full value of all the timber removed from the lands described herein.

5. That the plantiff have such other and further relief as it is entitled to in equity and good conscience.

HARRY M. DAUGHERTY,
Attorney General.
JAMES M. BECK,
Solicitor General.

22 *Exhibit A to complaint*

Patent No. 112, dated May 17, 1900, issued upon approved list No. 115, Crookston, and purporting to convey 11,093.14 acres, the same being White Earth Reservation lands lying in the four townships ceded under the act of 1889, and described as follows:

Fifth principal meridian.

Township one hundred and forty-three north of range thirty-seven west

Lot four and the southwest of the northwest of section three; lots two and three, the southeast quarter of the northeast quarter, and the southeast quarter of the northwest quarter of section four; lot one of section ten; the northwest quarter of the northeast quarter of section twelve; the northeast quarter of the southeast quarter of section twenty-seven; the southeast quarter of the southeast quarter of section twenty-eight and lot four of section thirty-one, containing in all four hundred and twenty-five acres and eighty-nine hundredths of an acre.

Township one hundred and forty-four north of range thirty-seven west

The north half of the southwest quarter and the southeast quarter of the southwest quarter of section one; lot two, the southwest quarter of the northeast quarter, the northwest quarter of the southeast quarter and the south half of the southeast quarter of section two, the north half of the southwest
23 quarter and the northwest quarter of the southeast quarter of section four; the south half of the southwest quarter, the northeast quarter of the southeast quarter and the south half of the southeast quarter of section five; lots six and seven, the east half of the southwest quarter and the west half of the southeast quarter of section six; the northeast quarter of the northwest quarter and lots one, two, five, and six of section seven; the north half of the north-

west quarter, the southeast quarter of the northwest quarter, the northwest quarter of the southeast quarter and lot one of section eight; the southeast quarter of the southwest quarter of section nine; the southeast quarter of the northwest quarter of section ten; the north half of the northeast quarter, the southeast quarter of the northeast quarter, and the southeast quarter of the southeast quarter of section eleven; the northeast quarter of the northwest quarter, the south half of the northwest quarter, and the west half of the southwest quarter of section twelve; the northwest quarter, the north half of the southwest quarter, and the southwest quarter of the southwest quarter of section thirteen; the northeast quarter of the northeast quarter, the south half of the northeast quarter, the northeast quarter of the southeast quarter, and the south half of the southeast quarter of section fourteen; the southwest quarter of the northeast quarter, the northeast quarter of the southwest quarter, and the northwest quarter of the southeast quarter of section fifteen; lots six and seven, the southwest quarter of the northeast quarter, the southeast quarter of the southwest quarter, and the northwest quarter of the southeast quarter of section eighteen; lots one, two, three, and four, the southeast quarter of the northwest
24 quarter and the east half of the southwest quarter of section nineteen; the north half of the northeast quarter of section twenty-three; the northwest quarter of the northeast quarter, the southeast quarter of the northeast quarter and the west half of the southwest quarter of section twenty-eight; the east half of the northwest quarter and the west half of the southeast quarter of section thirty; the northwest quarter of the northeast quarter and lot three of section thirty-one; the southeast quarter of the southeast quarter of section thirty-two; the south half of the northeast quarter and the northeast quarter of the southeast quarter of section thirty-three; and the northwest quarter of the southeast quarter of section thirty-four, containing in all three thousand four hundred and seventy-nine acres and sixty-five hundredths of an acre.

Township one hundred and forty-five north of range thirty-seven west

The northeast quarter of the southwest quarter of the southwest quarter of the southwest quarter and lots six and seven of section one; lots two, three, and four, the southwest quarter of the northeast quarter, the south half of the northwest quarter and the southwest quarter of section two; lots one, two, and three, the south half of the northeast quarter, the southeast quarter of the northwest quarter and the south half of section three; the northwest quarter of the southwest quarter, the southeast quarter of the southwest quarter of the southeast quarter of the southeast quarter of section four; lot four and the north half of the southeast quarter of section five; lot five, the southeast quarter of the northwest quarter and the southwest quarter of the northeast quarter of section six; the northeast

quarter of the northeast quarter, the south half of the northeast quarter, the east half of the northwest quarter, the east half of the southwest quarter and the southeast quarter of section nine; all of section ten; the west half of the northeast quarter, the north half of the northwest quarter, the southeast quarter of the northwest quarter and the southwest quarter of section eleven; lots one and two section twelve; the northeast quarter of the southeast quarter of section thirteen; the northwest quarter of the northwest quarter of section fourteen; the north half of the northeast quarter and the northwest quarter of section fifteen; the north half and the west half of the southwest quarter of section twenty-one; the northwest quarter of the northwest quarter and the southeast quarter of the southeast quarter of section twenty-two; the northwest quarter of the northeast quarter of section twenty-three; the southwest quarter of the southeast quarter of section twenty-four; the east half of the northeast quarter of section twenty-seven; the northwest quarter of the northwest quarter of section twenty-eight; the northeast quarter, the north half of the southeast quarter and the southwest quarter of the southeast quarter of section twenty-nine; lot four and the southeast quarter of the southeast quarter of section thirty; the north half of the northeast quarter, the southwest quarter of the northeast quarter, the east half of the northwest quarter, lots one and two, the east half of the southwest quarter and the northwest quarter of the southeast quarter of section thirty-one; the southwest quarter of the northeast quarter and the east half of the northwest quarter of section thirty-two; the southwest quarter of the northeast quarter and the northwest quarter of the southeast quarter of section thirty-three; the southwest quarter of the southeast quarter of section thirty-four, and the southwest quarter of the northeast quarter and the west half of the southeast quarter of section thirty-five containing in all five thousand one hundred and four acres and forty hundredths of an acre.

Township one hundred and forty-six north of range thirty-seven west

The northeast quarter of the southeast quarter of section one; the southwest quarter of the southeast quarter of section nine; the south half of the southeast quarter of section seventeen; the south half of the northeast quarter, the east half of the southwest quarter and the southeast quarter of section nineteen; the northwest quarter of the northeast quarter, the north half of the northwest quarter, the southwest quarter of the northwest quarter and the northwest quarter of the southwest quarter of section twenty; the west half of the northeast quarter, the northwest quarter and the northeast quarter of the southwest quarter of section twenty-three; the southeast quarter of the northwest quarter, the north half of the southwest quarter, the southwest quarter of the southwest quarter and lots one,

two, and three of section twenty-five; the southeast quarter of the southeast quarter of section twenty-six; the southeast quarter of the northwest quarter and the east half of the southwest quarter of section thirty; the southeast quarter of the southwest quarter, the northwest quarter of the southeast quarter and the south half of the southeast quarter of section thirty-four and the northeast quarter, the southeast quarter of the northwest quarter and the south half of section thirty-five, containing in all two thousand and eighty-three acres and twenty hundredths of an acre.

27 Patent No. 189, dated December 13, 1909, issued upon approved list No. 188, Cass Lake, and purporting to convey 11,413.30 acres, the same being Chippeway of the Mississippi and White Oak Point lands ceded under the act of 1889 and described as follows:

Fourth principal meridian.

Township fifty-five north, range twenty-seven west

The southeast quarter of the southwest quarter of section two; the lots eight and nine of section three; the lots two, three, and four of section four; the lots one, two, three, and four of section nine; the lots four and five and the south half of the southwest quarter of section ten; and the lot one of section eleven, containing six hundred twenty-seven and fifty hundredths acres;

Township fifty-six north, range twenty-seven west

The lot three of section twenty-eight, containing two and thirty-five hundredths acres;

Fifth principal meridian.

Township one hundred forty-three north, range twenty-five west

The lots two, five, six, nine, and twelve of section two, and the lot four of section eleven, containing one hundred thirty-four and thirty-nine hundredths acres;

Township one hundred forty-four north, range twenty-five west

The lots two and seven and the southwest quarter of the southwest quarter of section three; the lots one, two, nine, and fourteen of section four; the lot seven of section five; the lots four and

28 seven of section six; the lot one of section nine; the lots two, four, five, and ten of section ten; the lots four, six, seven, nine, thirteen, fourteen, and seventeen of section eleven; the lots one, two, three, five, six, seven, eight, nine, ten, eleven, twelve, and thirteen, and the west half of the southwest quarter of section twelve; the lots two, three, four, five, and six, the northeast quarter of the southwest quarter, and the south half of the southwest quarter of

section thirteen; the lots one, four, and five of section fourteen; the lots one, four, five, and eight of section twenty-three; the lots one, two, three, four, five, six, seven, eight, nine, ten, eleven, and twelve, the north half of the northwest quarter, the southwest quarter of the northwest quarter, the northwest quarter of the southwest quarter, and the southeast quarter of the southeast quarter of section twenty-four; the lots one, two, three, four, five, six, eight, nine, ten, and eleven, and the east half of the northeast quarter of section twenty-five; the lot four of section twenty-six; and the lot twelve of section thirty-five, containing two thousand eight hundred forty-four and fifty-five hundredths acres;

Township one hundred forty-four north, range twenty-six west

The lots one and two of section one; the lot six of section two; the lot three of section eleven; and the lot two of section twelve, containing one hundred sixty-three and ninety-two hundredths acres;

Township one hundred forty-six north, range twenty-six west

The east half, the east half of the northwest quarter, and the northeast quarter of the southwest quarter of section twenty-
29 one; the west half of the northwest quarter and the west half of the southwest quarter of section twenty-two; the south half of the northeast quarter, the south half of the northwest quarter, and the south half of section twenty-six; the north half and the east half of the southeast quarter of section twenty-seven; the east half of the northeast quarter of section twenty-eight; the north half of the northeast quarter of section thirty-four and the east half and the east half of the southwest quarter of section thirty-five; containing two thousand forty acres;

Township one hundred forty-one north, range twenty-seven west

The lot eight of section nine; the lot five of section twenty; the lots five and six of section twenty-nine; and the northeast quarter of the northeast quarter of section thirty-one, containing two hundred thirty-one and fifty-five hundredths acres;

Township one hundred forty-two north, range twenty-seven west

The lot eight of section twenty-eight and the west half of the southwest quarter of section thirty-three, containing ninety-eight and sixty-five hundredths acres;

Township one hundred forty-eight north, range twenty-seven west

The lot five of section one; the lot eight of section two; the southwest quarter of the southeast quarter of section three; the lot one

of section four; the lots four and six of section six; the lot two, the southeast quarter of the northeast quarter, and the northeast quarter of the southeast quarter of section seven; the northeast quarter of the northeast quarter of section ten; the lots eight and nine of section twenty; the lot four and the southeast quarter of the southwest quarter of section twenty-one; the southwest quarter of the southeast quarter of section twenty-five; and the northeast quarter of the northeast quarter of section twenty-seven, containing five hundred twenty-three and seven hundredths acres;

Township one hundred forty-one north, range twenty-eight west

The lot two of section one; the lot one of section eleven; the southeast quarter of the southwest quarter of section twenty-five; the southeast quarter of the southeast quarter of section twenty-six; the southeast quarter of the southeast quarter of section twenty-eight; and the lot three and the northeast quarter of the northeast quarter of section thirty-five, containing two hundred eighty-four and seventeen hundredths acres;

Township one hundred forty-two north, range twenty-eight west

The southeast quarter of the northeast quarter, the southeast quarter of the northwest quarter, and the southeast quarter of section twenty-one; the east half of the northeast quarter, the southwest quarter of the northwest quarter, and the south half of section twenty-two; the lot one, the north half of the southwest quarter, and the southwest quarter of the southwest quarter of section twenty-three; the north half of the northeast quarter, the southwest quarter of the northeast quarter, and the northwest quarter of section twenty-seven; the east half of the northeast quarter of section twenty-eight; the west half of the southwest quarter of section twenty-nine; the east half of the southeast quarter of section thirty; and the southeast quarter of the northeast quarter and the northeast quarter of the southeast quarter of section thirty-three, containing one thousand four hundred thirty-seven and forty-five hundredths acres;

Township one hundred forty-eight north, range twenty-eight west

The northwest quarter of the southwest quarter of section two; the lot four and the southwest quarter of the southwest quarter of section three; the lot one of section four; and the northeast quarter of the northwest quarter and the southeast quarter of the southeast quarter of section eleven, containing two hundred thirty-nine and twenty-five hundredths acres.

Township one hundred forty-one north, range twenty-nine west

The lots one and four of section eighteen and the lot one of section nineteen, containing eighty-three and sixty-nine hundredths acres;

Township one hundred forty-one north, range thirty west

The northwest quarter of the southwest quarter of section fourteen; the lot one of section seventeen; and the northeast quarter of the northeast quarter of section twenty-four, containing one hundred six and sixty-two hundredths acres;

Township one hundred forty-six north, range thirty west

The lots one and nine and the southeast quarter of the southeast quarter of section eleven and the southwest quarter of the southwest quarter of section twenty-two, containing one hundred nine and ninety-eight hundredths acres;

32 Township one hundred forty-seven north, range thirty west

The lot five of section nineteen; the lots three and four and the southeast quarter of the southwest quarter of section twenty; the northeast quarter of the southeast quarter of section twenty-three; the lots three, four, and eight of section twenty-seven; the lot three of section thirty; the lot two of section thirty-one; the north half of the northeast quarter and the southeast quarter of he northeast quarter of section thirty-three; the northeast quarter of the northeast quarter of section thirty-four; and the northwest quarter of the northeast quarter and the south half of the southeast quarter of section thirty-five, containing six hundred eighty-four and twenty-four hundredths acres;

Township one hundred forty-two north, range thirty-one west

The lots two and three of section four; the lot five of section five; the lots four and seven of section six; and the lot one of section eight, containing one hundred ninety-three and forty-three hundredths acres;

Township one hundred forty-three north, range thirty-one west

The southwest quarter of the northwest quarter and the west half of the southwest quarter of section four; the lots five, six, and seven, the south half of the northeast quarter, the northeast quarter of the southwest quarter, the north half of the southeast quarter, and the southeast quarter of the southeast quarter of section five; the lots three, four, and seven of section seven; the lots
33 one, two, three, and four and the northeast quarter of the

northeast quarter of section eight; the northwest quarter of the northeast quarter and the northeast quarter of the northwest quarter of section nine; and the lot three of section thirty-three, containing nine hundred and forty-five hundredths acres;

Township one hundred forty-four north, range thirty-one west

The southwest quarter of the southwest quarter of section four; the west half of the southwest quarter of section nine; the lot three and the southwest quarter of the northeast quarter of section twenty-nine; and the lot five of section thirty-three, containing one hundred eighty-four and fifteen hundredths acres;

Township one hundred forty-five north, range thirty-one west

The lot four and the southeast quarter of the southeast quarter of section seven; the northwest quarter of the southwest quarter of section seventeen; the southeast quarter of the northeast quarter and the lots five and six of section eighteen; and the southwest quarter of the southwest quarter of section thirty-two, containing two hundred eighty-seven and seventy hundredths acres;

Township one hundred forty-six north, range thirty-one west

The lots five and seven of section twenty-nine; the lot six of section thirty; the lot one of section thirty-two; and the lot eight of section thirty-four, containing one hundred twenty-four and fifteen hundredths acres;

34 Township one hundred forty-two north, range thirty-two west

The lots one, eleven, fourteen, and fifteen of section one, containing seventy-eight and twenty-nine hundredths acres;

Township one hundred forty-five north, range thirty-two west

The lot one of section twelve, containing thirty-three and seventy-five hundredths acres.

Patent No. 194, dated December 27, 1910, issued upon approved list No. 193, Cass Lake, and purporting to convey 59,107.69 acres, the same being Leech Lake, Chippeway of the Mississippi, and Winnibigoshish lands, ceded under the act of 1889, and described as follows:

Fifth principal meridian.

Township one hundred forty-five north of range twenty-five west

The southeast quarter of the northwest quarter of section seven; the southwest quarter of the southwest quarter of section nine; the

lots three and six of section fourteen; the east half of the southeast quarter of section fifteen; the lot three of section nineteen; the south half of the southeast quarter of section twenty; and the northeast quarter of the northeast quarter of section twenty-two, containing four hundred eight and forty-eight hundredths acres;

Township one hundred forty-six north of range twenty-five west

The lot three of section six; the southeast quarter of the northeast quarter and the northeast quarter of the southeast quarter of section seven; the southwest quarter of the northwest quarter of section
35 eight; the northwest quarter of the southeast quarter of section nine; the northwest quarter of the northeast quarter of section ten; the lot two of section eighteen; and the southwest quarter of the northeast quarter and the northeast quarter of the southeast quarter of section twenty-two, containing three hundred fifty-five and four hundredths acres;

Township one hundred forty-four north of range twenty-six west

The south half of section four; the lots one, two, and three, the north half of the southeast quarter, the southeast quarter of the southeast quarter, and the southwest quarter of the southwest quarter of section five; the lots, two, three, and four, the northwest quarter of the southeast quarter, and the northeast quarter of the southwest quarter of section six; the lots two and three, the east half of the northeast quarter, the east half of the southeast quarter, the southwest quarter of the southeast quarter, and the southeast quarter of the southwest quarter of section seven; all of section eight; the east half of the northeast quarter, the northwest quarter of the northwest quarter, the east half of the southeast quarter, and the south half of the southwest quarter of section nine; the west half of the northwest quarter, the northwest quarter of the southeast quarter, the southeast quarter of the southeast quarter, and the south half of the southwest quarter of section ten; the northeast quarter of the northwest quarter of section twelve; the northwest quarter of the northwest quarter, the south half of the northwest quarter, and the northwest quarter of the southwest quarter of section fourteen; the northeast quarter, the south half of the northwest quarter,
36 the north half of the southeast quarter, and the northeast quarter of the sonthwest quarter of section fifteen; all of section seventeen; the lots one, two, and four, the south half of the northeast quarter, the east half of the northwest quarter, the northwest quarter aof the southeast quarter, the southeast quarter of the southeast quarter, and the southeast quarter of the southwest quarter of section eighteen; the northwest quarter of the northeast quarter and the northeast quarter of the northwest quarter of section nineteen; the north half and the northwest quarter of the southeast quarter of section twenty; and the northwest quarter of the north-

east quarter, the north half of the northwest quarter, the southwest quarter of the northwest quarter, and the west half of the southwest quarter of section twenty-one, containing four thousand five hundred thirteen and fifty-seven hundredths acres;

Township one hundred forty-five north of range twenty-six west

The south half of the northeast quarter and the north half of the southeast quarter of section seven; the east half of the northeast quarter and the southwest quarter of the southeast quarter of section eighteen; the northwest quarter of the northeast quarter and the northeast quarter of the southeast quarter of section nineteen; the northeast quarter of the northeast quarter, the southwest quarter of the northwest quarter, the northwest quarter of the southwest quarter, and the southeast quarter of the southwest quarter of section twenty; the northwest quarter of the northwest quarter of section twenty-one; the northeast quarter of the northwest quarter of
37 section twenty-nine; the lots five and six and the northeast quarter of the southwest quarter of section thirty; the lots one, two, three, and four and the east half of the northwest quarter of section thirty-one; the southeast quarter of the southwest quarter of section thirty-two; and the southwest quarter of the southwest quarter of section thirty-three, containing one thousand forty-two and thirty-three hundredths acres;

Township one hundred forty-six north of range twenty-six west

The lots four and five of section one; the lots two, three, and four and the southeast quarter of the northwest quarter of section four; the south half of the southwest quarter of section fifteen; the lots five, six, and seven and the southwest quarter of the southeast quarter of section seventeen; the west half of the northeast quarter, the north half of the northwest quarter, the southeast quarter of the northwest quarter, and the northwest quarter of the southwest quarter of section twenty; the northeast quarter of the northwest quarter of section twenty-two; and the northeast quarter of the southwest quarter of section thirty-four, containing seven hundred fifty-four and eighty-two hundredths acres;

Township one hundred forty-seven north of range twenty-six west

The southwest quarter of the northwest quarter of section one; the lot three, the southwest quarter of the northeast quarter, and the southeast quarter of the northwest quarter of section two; the west half of the southeast quarter of section three; the northwest quarter of the southeast quarter of section five; the lots three and thirteen of section six; the lots three, five, six, nine, and ten
38 of section seven; the southeast quarter of the southwest quarter of section nine; the lots two and three, the southeast

quarter of the northwest quarter, the northwest quarter of the southeast quarter, and the southeast quarter of the southeast quarter of section seventeen; the lots two, three, four, five, seven, nine, ten, eleven, and twelve, the southwest quarter of the northeast quarter, and the southeast quarter of section eighteen; the lots two, three, four, five, and twelve, the northeast quarter of the northeast quarter, and the southwest quarter of the northeast quarter of section nineteen; the east half of the northeast quarter, the west half of the northwest quarter, the north half of the southeast quarter, and the southwest quarter of the southeast quarter of section twenty; the south half of the northwest quarter, the north half of the southwest quarter, and the southwest quarter of the southwest quarter of section twenty-one; the lot four of section twenty-six; the south half of the northwest quarter of section twenty-seven; the northwest quarter of the northeast quarter, the south half of the northeast quarter, the northeast quarter of the northwest quarter, and the southwest quarter of the northwest quarter of section twenty-eight; the west half of the northeast quarter, the northeast quarter of the northwest quarter, the northwest quarter of the southeast quarter, and the south half of the southeast quarter of section twenty-nine; the east half, the northwest quarter of the northwest quarter, the southeast quarter of the northwest quarter, and the east half of the southwest quarter of section thirty-two; the northeast quarter of the northeast quarter, the southwest quarter of the northeast
39 quarter, the northwest quarter of the northwest quarter, the south half of the northwest quarter, the northwest quarter of the southeast quarter, the south half of the southeast quarter, and the southwest quarter of section thirty-three; the southwest quarter of the southwest quarter of section thirty-four; and the northeast quarter of the northwest quarter and the northeast quarter of the southwest quarter of section thirty-five, containing three thousand six hundred three and ninety-seven hundredths acres;

Township one hundred forty-eight north of range twenty-six west

The lots two, three, and four, the south half of the northeast quarter, and the south half of the northwest quarter of section two; the lots one and two and the south half of the northeast quarter of section three; the lot four of section five, the lot three of section six; the south half of the northwest quarter and the northeast quarter of the southwest quarter of section nine; the west half of the northwest quarter, the north half of the southwest quarter, and the southeast quarter of the southwest quarter of section ten; the northeast quarter of the southwest quarter of section eleven; the lot four of section fifteen; the northwest quarter of the northeast quarter of section seventeen; the lot five of section twenty-two; the southeast quarter of the northeast quarter and the northeast quarter of the northwest quarter of section twenty-three; the northeast quarter of the northeast quarter, the northwest quarter of the southeast quarter,

and the southeast quarter of the southwest quarter of section twenty-five; and the northwest quarter of the northeast quarter of section thirty-five, containing one thousand two hundred twelve and forty-nine hundredths acres;

40 Township one hundred forty-one north of range twenty-seven west

The northwest quarter of the southwest quarter of section four; the lot four of section six; the lots three and four and the east half of the southwest quarter of section nineteen, containing two hundred forty-six and thirty-nine hundredths acres;

Township one hundred forty-two north of range twenty-seven west

The southeast quarter of the southwest quarter of section thirty-one, containing forty acres;

Township one hundred forty-four north of range twenty-seven west

The lots one, two, three, and four, the south half of the northeast quarter, the south half of the northwest quarter, the northwest quarter of the southeast quarter, the south half of the southeast quarter, and the southwest quarter of section one; the lots one, two, and three, the south half of the northeast quarter, the southeast quarter of the northwest quarter, the northeast quarter of the southeast quarter, the west half of the southeast quarter, and the southeast quarter of the southwest quarter of section two; the lots two and three, the southwest quarter of the northeast quarter, the south half of the northwest quarter, the north half of the southeast quarter, the southeast quarter of the southeast quarter, and the southwest quarter of section three; the lot four, the south half of the northeast quarter, the southwest quarter of the northwest quarter, the southeast quarter, and the north half of the southwest quarter of section four; the lot one, the southeast quarter of the northeast quarter, and the
41 northeast quarter of the southeast quarter of section five; the lots seven and six of section seven; the east half of the northeast quarter of section eight; the northwest quarter of the southeast quarter, the south half of the southeast quarter, and the north half of the southwest quarter of section nine; the north half of the northeast quarter, the southeast quarter of the northeast quarter, the north half of the northwest quarter, the southeast quarter of the northwest quarter, and the south half of the southeast quarter of section ten; the northeast quarter, the north half of the northwest quarter, the north half of the southeast quarter, the southeast quarter of the southeast quarter, the north half of the southwest quarter, and the southwest quarter of the southwest quarter of section eleven; the northeast quarter of the northeast quarter, the southwest quarter of the northeast quarter, the south half of the northwest quarter,

and the south half of section twelve; the south half of the northeast quarter, the east half of the northwest quarter, the southeast quarter, and the southeast quarter of the southwest quarter of section thirteen; the west half of the northeast quarter, the northwest quarter, the north half of the southeast quarter, the southeast quarter of the southeast quarter, the north half of the southwest quarter, and the southeast quarter of the southwest quarter of section fourteen; the northeast quarter of the northwest quarter of section fifteen; the west half of the southwest quarter and the southeast quarter of the southwest quarter of section seventeen; the lots two, three, and four, the south half of the northeast quarter, the southeast quarter of the northwest quarter, the southeast quarter, and the east half of the southwest quarter of section eighteen; the lots one, two, three,
42 and four, the northeast quarter, the east half of the northwest quarter, the north half of the southeast quarter, the southwest quarter of the southeast quarter, and the east half of the southwest quarter of section nineteen; the southeast quarter of the northwest quarter and the north half of the southwest quarter of section twenty; the northeast quarter of the northeast quarter, the south half of the northeast quarter, and the southeast quarter of the southeast quarter of section twenty-one; the southwest quarter of the southeast quarter and the northeast quarter of the southwest quarter of section twenty-two; the southwest quarter of the southeast quarter of section twenty-six; the northwest quarter of the southeast quarter, the north half of the southwest quarter, and the southwest quarter of the southwest quarter of section twenty-seven; the southeast quarter of the northeast quarter, the south half of the northwest quarter, the southeast quarter, the north half of the southwest quarter, and the southwest quarter of the southwest quarter of section twenty-eight; the north half of the northeast quarter, the southeast quarter of the northeast quarter, the northeast quarter of the northwest quarter, the southwest quarter of the northwest quarter, and the south half of section twenty-nine; the lots one, two, three, and four, the northeast quarter of the northeast quarter, the south half of the northeast quarter, the east half of the northwest quarter, the southeast quarter, and the east half of the southwest quarter of section thirty; the lots one, two, and three, the east half, the east half of the northwest quarter, and the northeast quarter of the southwest quarter of section thirty-one; the north half, the north half of
43 the southeast quarter, the southeast quarter of the southeast quarter, the north half of the southwest quarter, and the southwest quarter of the southwest quarter of section thirty-two; the northeast quarter, the northwest quarter of the northwest quarter, the south half of the northwest quarter, the north half of the southeast quarter, the southeast quarter of the southeast quarter, and the southwest quarter of section thirty-three; and the southeast quarter of the northwest quarter, and the southwest quarter of section thirty-four, containing nine thousand five hundred forty-three and seventy-four hundredths acres;

Township one hundred forty-five north of range twenty-seven west

The lots two and three, the southwest quarter of the northeast quarter, the southeast quarter of the northwest quarter, the northwest quarter of the southeast quarter, and the northwest quarter of the southwest quarter of section two; the lot four and the southeast quarter of the southeast quarter of section three; the lots one and two, the south half of the northeast quarter, and the northwest quarter of the southeast quarter of section four; the south half of the northeast quarter, the southeast quarter of the northwest quarter, and the southeast quarter of section five; the south half of the northeast quarter, the east half of the northwest quarter, the north half of the southeast quarter, the southeast quarter of the southeast quarter, and the southwest quarter of section eight; the southwest quarter of the northeast quarter, the south half of the northwest quarter, the northwest quarter of the southeast quarter, the south half of the southeast quarter, and the southwest quarter of section nine;
44 the northeast quarter of the northeast quarter, the southwest quarter of the southeast quarter, the northeast quarter of the southwest quarter, and the south half of the southwest quarter of section ten; the west half of the northeast quarter, the northwest quarter, the north half of the southeast quarter, and the east half of the southwest quarter of section eleven; the northeast quarter, the north half of the northwest quarter, the southeast quarter of the northwest quarter, the northwest quarter of the southeast quarter, and the west half of the southwest quarter of section fourteen; the west half of the northeast quarter, the northwest quarter, and the south half of section fifteen; the southwest quarter of the northeast quarter, the south half of the northwest quarter, the south half of the southeast quarter, the north half of the southwest quarter, and the southwest quarter of the southwest quarter of section seventeen; the north half of the southeast quarter of section eighteen; the northeast quarter of the northeast quarter of section twenty; the northeast quarter, the northeast quarter of the northwest quarter, the north half of the southeast quarter, the southwest quarter of the southeast quarter, and the south half of the southwest quarter of section twenty-one; the north half of the northeast quarter, the southeast quarter of the northeast quarter, the northwest quarter, the north half of the southeast quarter, the southeast quarter of the southeast quarter, and the north half of the southwest quarter of section twenty-two; the northeast quarter of the northeast quarter, the south half of the northeast quarter, the north half of the southeast quarter, the southwest quarter of the southeast quarter, and the west half of section twenty-three; the southwest quarter of the northwest quarter
45 and the north half of the southwest quarter of section twenty-four; the northwest quarter of the northeast quarter, the south half of the northeast quarter, the northwest quarter of the northwest quarter, the north half of the southeast quarter, and the north half of the southwest quarter of section twenty-five; the lots

one and two, the northeast quarter, the north half of the northwest quarter, and the northeast quarter of the southeast quarter of section twenty-six; the lot one, the southwest quarter of the northeast quarter, the north half of the northwest quarter, the southeast quarter of the northwest quarter, the west half of the southeast quarter, the northeast quarter of the southwest quarter, and the south half of the southwest quarter of section twenty-seven; all of section twenty-eight; the northwest quarter of the southeast quarter and the south half of the southeast quarter of section twenty-nine; the lots two, three, and four, the north half of the northeast quarter, and the southeast quarter of the southwest quarter of section thirty; the northeast quarter of the northwest quarter and the southeast quarter of the southeast quarter of section thirty-one; the southeast quarter of the northwest quarter and the north half of the southwest quarter of section thirty-two; the lots one, two, three, and four, the north half of the northeast quarter, the northwest quarter, the northwest quarter of the southwest quarter, and the south half of the southwest quarter of section thirty-three; the lots one, two, three, four, five, and seven, the south half of the northeast quarter, the northwest quarter of the northwest quarter, and the east half of the southeast quarter of section thirty-four; the lots one and two, the north
46 half of the northeast quarter, the southwest quarter of the northeast quarter, the southeast quarter of the northwest quarter, the southeast quarter, the northeast quarter of the southwest quarter, and the south half of the southwest quarter of section thirty-five, containing eight thousand eight hundred ninety-seven and ninety-eight hundredths acres;

Township one hundred forty-six north of range twenty-seven west

The lots three and four of section twenty-six; the southwest quarter of the southeast quarter and the southeast quarter of the southwest quarter of section twenty-eight; the east half of the northeast quarter of section thirty-two; the north half of the northeast quarter, the southwest quarter of the northeast quarter, the northwest quarter, the south half of the southeast quarter, and the north half of the southwest quarter of section thirty-three; the southwest quarter of the southwest quarter of section thirty-four; and the east half of the southeast quarter and the southwest quarter of the southeast quarter of section thirty-five; containing eight hundred seven and ninety-five hundredths acres;

Township one hundred forty-seven north of range twenty-seven west

The south half of the northwest quarter of section one; the lot one, the southeast quarter of the northeast quarter, and the northwest quarter of the southeast quarter of section two; the lot two of section three; the lots two, three, and four and the southwest quarter of the northwest quarter of section four; the lots one and two and the south half of the northeast quarter of section five; the lots

47 one and three of section six; the lot three of section eight; the southwest quarter of the northeast quarter and the north half of the southeast quarter of section twelve; the northeast quarter of the southeast quarter, the southwest quarter of the southeast quarter, and the east half of the southwest quarter of section thirteen; and the southeast quarter of the northeast quarter, the southeast quarter of the southeast quarter, and the northeast quarter of the southwest quarter of section twenty-four, containing one thousand seventy-nine and sixty-nine hundredths acres;

Township one hundred forty-eight north of range twenty-seven west

The west half of the southwest quarter of section three; the southeast quarter of the southeast quarter of section four; the northwest quarter of the northeast quarter, the east half of the northwest quarter, and the northwest quarter of the southeast quarter of section ten; the northeast quarter of the northwest quarter and the southwest quarter of the northwest quarter of section eleven; the southeast quarter of the northwest quarter of section fourteen; the lot four of section seventeen; the lots one and three and the northeast quarter of the northeast quarter of section twenty-one; the northwest quarter of the northeast quarter of section twenty-two; the northwest quarter of the northwest quarter of section twenty-eight; the southwest quarter of the northeast quarter and the northeast quarter of the southwest quarter of section twenty-nine; the southeast quarter of the northeast quarter and the northwest quarter of the southwest quarter of section thirty-two; the north half of the northwest quarter, the northwest quarter of the southeast
48 quarter, and the southeast quarter of the southeast quarter of section thirty-three; and the east half of the northeast quarter, the southeast quarter of the northwest quarter, and the west half of the southwest quarter of section thirty-five, containing one thousand one hundred twenty-six and five hundredths acres;

Township one hundred forty-one north of range twenty-eight west

The lot three of section one; the lot one of section two; the lot four of section seven; the lot three and the southwest quarter of the southeast quarter of section eighteen; the northeast quarter of the southwest quarter of section twenty-five; the southwest quarter of the southwest quarter of section twenty-six; the lot eleven of section thirty-three; and the lot fourteen of section thirty-four, containing two hundred seventy-seven and seventy-one hundredths acres;

Township one hundred forty-two north of range twenty-eight west

The northwest quarter of the northwest quarter of section thirty-two, containing forty acres;

Township one hundred forty-four north of range twenty-eight west

The southwest quarter of the southeast quarter and the south half of the southwest quarter of section one; the lot four, the southwest quarter of the northeast quarter, the southeast quarter of the northwest quarter, the east half of the southeast quarter, and the southwest quarter of section two; the southwest quarter of the northeast quarter, the north half of the southeast quarter, the southeast quarter of the southeast quarter, the north half of the southwest quarter, and the southwest quarter of the southwest quarter of section three; the lots three and four, the southwest quarter of the northeast quarter, the south half of the northwest quarter, and the south half of section four; the lots one, two, and three, the south half of the northeast quarter, the southeast quarter of the northwest quarter, and the east half of the southeast quarter of section five; the northeast quarter of the northeast quarter, the south half of the northeast quarter, the north half of the southeast quarter, and the southeast quarter of the southeast quarter of section eight; all of section nine; the northeast quarter, the northwest quarter of the northwest quarter, the south half of the northwest quarter, and the north half of the southwest quarter of section ten; all of section eleven; the northeast quarter of the northeast quarter, the south half of the northeast quarter, the northwest quarter, and the south half of section twelve; the lots one, three, and four, the northwest quarter of the northeast quarter, the southwest quarter of the northeast quarter, the lot two, the north half of the northwest quarter, the southeast quarter of the northwest quarter, and the southwest quarter of section thirteen; the north half of the northeast quarter, the southwest quarter of the northeast quarter, the northwest quarter, and the south half of section fourteen; the southeast quarter of the northeast quarter, the west half of the southeast quarter, and the southeast quarter of the southwest quarter of section fifteen; the northwest quarter of the northeast quarter, the southeast quarter of the northeast quarter, the east half of the northwest quarter, the northwest quarter of the southeast quarter, and the south half of the southeast quarter of section twenty-two; all of section twenty-three; the lots one, two, three, and four, the northwest quarter of the northeast quarter, the south half of the northeast quarter, the northwest quarter, the north half of the southwest quarter, and the southwest quarter of the southwest quarter of section twenty-four; the lots one, two, three, and four, the northwest quarter of the northwest quarter, the south half of the northwest quarter, the south half of the southeast quarter, and the northeast quarter of the southwest quarter of section twenty-five; the north half of section twenty-six; the north half of the northeast quarter and the southeast quarter of the northwest quarter of section twenty-seven; the northwest quarter of the southwest quarter of section twenty-eight; the northeast quarter of the northeast quarter of section twenty-nine; and

the north half of the northeast quarter of section thirty-four, containing seven thousand eight hundred eighteen and nineteen hundredths acres;

Township one hundred forty-five north of range twenty-eight west

The northwest quarter of the southeast quarter, the south half of the southeast quarter, and the east half of the southwest quarter of section twenty-six; the west half of the southwest quarter of section twenty-seven; the southeast quarter of the southeast quarter of section twenty-eight; the southwest quarter of the southwest quarter of section twenty-nine; the southeast quarter of the northeast quarter, and the southeast quarter of the southeast quarter of section thirty; the west half of the northwest quarter, the southeast quarter, and the east half of the southwest quarter of section thirty-two; the
51 southeast quarter of the northeast quarter, the south half of the northwest quarter, and the southwest quarter of section thirty-three; the northwest quarter, the northeast quarter of the southeast quarter, the southwest quarter of the southeast quarter, the northwest quarter of the southwest quarter, and the southeast quarter of the southwest quarter of section thirty-four; and the northeast quarter of the northeast quarter and the south half of the southwest quarter of section thirty-five, containing one thousand four hundred eighty acres;

Township one hundred forty-eight north of range twenty-eight west

The lot two of section four; the lot two of section seven; the southwest quarter of the southwest quarter of section seventeen; the southeast quarter of the northwest quarter of section eighteen; the lot one of section nineteen; the northeast quarter of the southwest quarter of section twenty-six; the southeast quarter of the southeast quarter, the southwest quarter of the southeast quarter, and the west half of the southwest quarter of section twenty-eight; the southwest quarter of the northeast quarter, the southeast quarter, and the southeast quarter of the southwest quarter of section twenty-nine; the north half of the northeast quarter and the southeast quarter of the northeast quarter of section thirty-two; the north half of the northeast quarter and the northwest quarter of section thirty-three; the north half of the northeast quarter, the southwest quarter of the northeast quarter, the northeast quarter of the northwest quarter, and the south half of the northwest quarter of section thirty-four; and the northwest quarter of the northeast quarter and the northwest quarter of the northwest quarter of section thirty-five, containing one thousand three hundred sixteen and fourteen hundredths acres;

52 Township one hundred forty-one north of range twenty-nine west

The lot one of section thirteen; the southwest quarter of the southwest quarter of section seventeen; the southeast quarter of the northwest quarter of section twenty-three; and the southeast quarter of the southeast quarter of section twenty-four, containing one hundred fifty-six acres;

Township one hundred forty-three north of range twenty-nine west

The lot one of section four; the southwest quarter of the northwest quarter of section five; and the lots three and seven and the east half of the southwest quarter of section six, containing two hundred one and thirty-seven hundredths acres;

Township one hundred forty-four north of range twenty-nine west

The lot two of section three; the southwest quarter of the northwest quarter and the northwest quarter of the southwest quarter of section five; the lots five and six, the east half of the southeast quarter, and the southwest quarter of the southeast quarter of section six; the lots two, three, and four, the west half of the northeast quarter, the east half of the northwest quarter, the northwest quarter of the southeast quarter, the northeast quarter of the southwest quarter, and the southwest quarter of the southwest quarter of section seven; the southwest quarter of the northeast quarter, the southeast quarter of the northwest quarter, and the north half of the southeast quarter of section ten; the southeast quarter of the northeast quarter and the east half of the southeast quarter of section seventeen; the northeast quarter of the southeast quarter and
53 the southwest quarter of the southeast quarter of section eighteen; the northwest quarter of the northeast quarter of section twenty-one; and the north half of the northeast quarter of section thirty-two, containing one thousand two hundred three and seventy-seven hundredths acres;

Township one hundred forty-five north of range twenty-nine west

The southeast quarter of the southeast quarter of section six; the east half of the northwest quarter, the east half of the southwest quarter, and the lot four of section seven; the southeast quarter of the southeast quarter of section nine; the lots three, four, and five of section ten; the southwest quarter of the northwest quarter and the northwest quarter of the southwest quarter of section fifteen; the southwest quarter of the southwest quarter of section seventeen; the lots one and two of section eighteen; the west half of the northeast quarter, the southeast quarter of the northwest quarter, the west half of the southeast quarter, and the east half of the southwest

quarter of section nineteen; the southwest quarter of the northeast quarter, the northwest quarter of the northwest quarter, the south half of the northwest quarter, and the northeast quarter of the southwest quarter of section twenty-two; the southeast quarter of the northeast quarter and the northeast quarter of the southeast quarter of section twenty-three; the west half of the northeast quarter of section thirty; the northwest quarter of the southeast quarter of section thirty-one; the northwest quarter of the northeast quarter and the southeast quarter of the northwest quarter of section thirty-four; and the northeast quarter of the south-
54 west quarter of section thirty-five, containing one thousand three hundred thirty-nine and twenty-seven hundredths acres;

Township one hundred forty-six north of range twenty-nine west

The southwest quarter of section three; the lots two and three of section four; the lots one, two, five, six, and seven, the southwest quarter of the northeast quarter, and the northwest quarter of the southeast quarter of section five; the lots four, five, six, and seven and the east half of the southwest quarter of section six; the lot three of section seven; the lots two and three and the northeast quarter of the southeast quarter of section eight; the northeast quarter of the southeast quarter and the northwest quarter of the southwest quarter of section nine; the northeast quarter of the northwest quarter and the south half of the northwest quarter of section ten; the southwest quarter of the northwest quarter of section fifteen; the north half of the southeast quarter and the southwest quarter of the southwest quarter of section seventeen; the southeast quarter of the northeast quarter and the north half of the southeast quarter of section eighteen; the northwest quarter of the northeast quarter of section nineteen; the northeast quarter of the northeast quarter and the northeast quarter of the southeast quarter of section twenty-one; the north half of the northwest quarter and the southwest quarter of the northwest quarter of section twenty-two; and the northeast quarter of the northwest quarter of section twenty-eight, containing one thousand five hundred fifty-four and fifty-one hundredths acres;

55 Township one hundred forty-seven north of range twenty-nine west

The lots four and nine, the southwest quarter of the northeast quarter, the southeast quarter, and the southeast quarter of the southwest quarter of section nineteen; the southeast quarter of the northeast quarter, the southeast quarter, and the east half of the southwest quarter of section twenty; the lot three, the southwest quarter of the northwest quarter, and the southwest quarter of section twenty-one; the lots four, five, and six, the south half of the north-

east quarter, and the north half of the southeast quarter of section twenty-two; the lot three, the southwest quarter of the northwest quarter, the southwest quarter of the southeast quarter, and the north half of the southwest quarter of section twenty-three; the northeast quarter of the northeast quarter of section twenty-six; the lots two, three, four, and five, the northwest quarter of the northwest quarter, the south half of the northwest quarter, and the northwest quarter of the southwest quarter of section twenty-seven; the north half, the northeast quarter of the southeast quarter, and the south half of the southwest quarter of section twenty-eight; the northeast quarter, the southeast quarter of the northwest quarter, and the southwest quarter of the southwest quarter of section twenty-nine; the lots one and two, the east half of the northeast quarter, the east half of the northwest quarter, and the northwest quarter of the southeast quarter of section thirty; the lot four and the southeast quarter of the southwest quarter of section thirty-one; the lots one and two,
the north half of the northwest quarter, the north half of the
56 southeast quarter, and the southwest quarter of the southwest
quarter of section thirty-two; the lot one, five, six, seven, and eight, the northwest quarter of the southeast quarter, and the north half of the southwest quarter of section thirty-three; and the northeast quarter of the southeast quarter of section thirty-four, containing three thousand two hundred fifty-eight and seventeen hundredths acres;

Township one hundred forty-one north of range thirty west

The lot one of section twenty-three and the lots three and four of section twenty-four, containing one hundred thirty-seven and eighty hundredths acres;

Township one hundred forty-four north of range thirty west

The southeast quarter of the northeast quarter, the east half of the southeast quarter, and the southwest quarter of the southeast quarter of section one; the west half of the southwest quarter of section two; the south half of the northwest quarter and the north half of the southwest quarter of section four; the southeast quarter of the northeast quarter and the northeast quarter of the southeast quarter of section ten; the west half of the northwest quarter of section eleven; the east half of section twelve; the lot three of section nineteen; the northwest quarter of the northwest quarter of section twenty; the east half of the northeast quarter and the northeast quarter of the southeast quarter of section twenty-one; the southeast quarter and the east half of the southwest quarter of section twenty-
nine; and the west half of the northeast quarter, the northeast
57 quarter of the northwest quarter, and the south half of the
northwest quarter of section thirty-two, containing one thousand five hundred one and forty-four hundredths acres;

Township one hundred forty-five north of range thirty west

The northwest quarter of the southwest quarter and the south half of the southwest quarter of section one; the southeast quarter of the northwest quarter, the northwest quarter of the southeast quarter, the southeast quarter of the southeast quarter, and the southeast quarter of the southwest quarter of section two; the northwest quarter of the southeast quarter of section three; the northeast quarter of the southeast quarter of section eleven; the north half of the northwest quarter and the north half of the southwest quarter of section twelve; the northwest quarter of the southeast quarter, the northeast quarter of the southwest quarter, and the south half of the southwest quarter of section thirteen; the southeast quarter of the northwest quarter of section fourteen; the northeast quarter of the northwest quarter of section twenty-three; the lot three and the north half of the northwest quarter of section twenty-four; the southwest quarter of the southwest quarter of section twenty-eight; and the southeast quarter of the northeast quarter and the northwest quarter of the southwest quarter of section thirty-two, containing nine hundred ninety-seven and ninety-five hundredths acres;

Township one hundred forty-six north of range thirty west

The lots one and two and the south half of the northeast quarter of section one; the lot three and the southwest quarter of the
58 southwest quarter of section three; the lots two and ten, the northeast quarter of the southeast quarter, and the southwest quarter of the southeast quarter of section eleven; the lot three of section twelve; the west half of the northeast quarter, the northeast quarter of the northwest quarter, the lot one, the southwest quarter of the northwest quarter, and the northeast quarter of the southwest quarter of section fourteen; the southeast quarter of the southeast quarter of section twenty-one; the south half of the northwest quarter, the west half of the southeast quarter, and the north half of the southwest quarter of section twenty-seven; and the northeast quarter of the northeast quarter of section thirty-four, containing one thousand six and twelve hundredths acres;

Township one hundred forty-seven north of range thirty west

The lot eight of section seventeen; the lots five and seven of section eighteen; the lot one of section twenty; the southeast quarter of the northwest quarter and the northeast quarter of the southwest quarter of section twenty-one; the lots five and six of section twenty-two; the northwest quarter of the northeast quarter, the northeast quarter of the northwest quarter, the northwest quarter of the southeast quarter, and the south half of the southeast quarter of section twenty-three; the northeast quarter of the southeast quarter, the south half of the southeast quarter, the north half of the south-

west quarter, and the southeast quarter of the southwest quarter of section twenty-four; the northeast quarter of the northeast quarter and the east half of the southeast quarter of section twenty-five; the
59 north half of the northeast quarter, the southwest quarter of the northeast quarter, and the southeast quarter of the northwest quarter of section twenty-six; the northwest quarter of the northeast quarter, the southeast quarter of the northeast quarter, the northeast quarter of the northwest quarter, and the southwest quarter of the southeast quarter of section twenty-eight; the north half of the northwest quarter of section twenty-nine; the west half of the northwest quarter of section thirty-four; and the southwest quarter of the northwest quarter and the northwest quarter of the southwest quarter of section thirty-five, containing one thousand three hundred ninety-two and eighty-three hundredths acres;

Township one hundred forty-four north of range thirty-one west

The lots six and seven of section one; the lots twelve and thirteen of section two; the lot four of section three; the northwest quarter of the southwest quarter of section four; the northeast quarter of the northwest quarter of section nine; the southwest quarter of the northeast quarter, the southeast quarter of the northwest quarter, the northeast quarter of the southeast quarter, and the southwest quarter of the southeast quarter of section ten; the lots three and four of section eleven; the lot one and the northwest quarter of the northeast quarter of section twelve; the lot four of section thirteen; the lots six and ten of section fourteen; and the northeast quarter of the northwest quarter of section twenty-three, containing six hundred eighty-three and thirty hundredths acres;

Township one hundred forty-five north of range thirty-one west

The southwest quarter of the northeast quarter of section
60 twenty-eight; the northwest quarter of the southeast quarter, the southeast quarter of the southeast quarter, and the northeast quarter of the southwest quarter of section thirty-one; and the northwest quarter of the southwest quarter of section thirty-two, containing two hundred acres;

Township one hundred forty-six north of range thirty-one west

The lots five and six of section six; the east half of the northeast quarter of section eight; the southwest quarter of the northwest quarter and the northwest quarter of the southeast quarter of section nine; the lots one, four, and seven of section ten; and the southwest quarter of the northwest quarter of section fifteen, containing three hundred fifty-three and nine hundredths acres;

Township one hundred forty-seven north of range thirty-one west

The lot seven of section thirteen; the lot three, the south half of the northeast quarter, and the northeast quarter of the southeast quarter of section nineteen; the southwest quarter of the northwest quarter and the northwest quarter of the southwest quarter of section twenty; the southeast quarter of the northeast quarter of section twenty-one; the south half of the northwest quarter and the northwest quarter of the southwest quarter of section twenty-two; and the lots three and four of section thirty-one, containing four hundred ninety-seven and thirteen hundredths acres;

Township one hundred forty-six north of range thirty-two west

The northeast quarter of the northeast quarter of section twelve and the lot two of section thirteen, containing sixty and forty hundredths acres.

61 Patent No. 195, dated March 27, 1911, issued upon approved list No. 194, Cass Lake, and purporting to convey 31,213.74 acres, the same being Chippeway of the Mississippi Leech Lake and Winnibigoshish lands ceded under the act of 1889, and described as follows:

Fifth principal meridian.

Township one hundred forty-four north of range twenty-six west

The lots four and seven of section two; the lots two, seven, and eight and the southeast quarter of the southeast quarter of section three; the lot seven and the northwest quarter of the southeast quarter of section eleven; the lots five and eight of section twelve; the lot two, the southwest quarter of the northeast quarter, the southeast quarter of the northwest quarter, the northwest quarter of the southeast quarter, the northeast quarter of the southwest quarter, and the south half of the southwest quarter of section twenty-two; the lots two and three of section twenty-seven; the lots four and five of section twenty-eight; the northwest quarter of the northwest quarter, the south half of the northwest quarter, and the southwest quarter of section twenty-nine; the lots one, two, three, and four, the east half, the east half of the northwest quarter, and the east half of the southwest quarter of section thirty; the lot six, the northwest quarter of the northeast quarter, and the northeast quarter of the northwest quarter of section thirty-one; the lots three and four, the northwest quarter of the northeast quarter, and the northeast quarter of the northwest quarter of section thirty-two; and the lot of one of section thirty-three, containing one thousand eight hundred ninety-four and eighty-three-hundredths acres.

62 Township one hundred forty-five north of range twenty-six west

The southwest quarter of the southwest quarter of section five; the lot three and the southeast quarter of the southeast quarter of section six; the north half of the northeast quarter of section seven; the northeast quarter of the southeast quarter of section thirty-two; the lot eight and the northwest quarter of the southwest quarter of section thirty-three; and the lot three of section thirty-four, containing three hundred sixty-six and eighty-five-hundredths acres.

Township one hundred forty-six north of range twenty-six west

The lots four, five, and six, the south half of the northwest quarter, the west half of the southeast quarter, and the north half of the southwest quarter of section three; the lot one, the south half of the northeast quarter, and the north half of the southeast quarter of section four; the lot two of section ten; the lot eleven of section nineteen; and the lots six, seven, and eight of section thirty, containing seven hundred seven and eighty-seven-hundredths acres.

Township one hundred and forty-seven north of range twenty-six west

The northwest quarter of the northwest quarter of section twenty-nine; the lots three, four, seven, eleven, and twelve, the east half of the northeast quarter, the northeast quarter of the southeast quarter, and the southwest quarter of the southeast quarter of section thirty; and the lots two, three, six, seven, and eight and the northwest quarter of the northeast quarter of section thirty-one, con-
63 taining five hundred forty-six and sixty-five-hundredths acres.

Township one hundred forty-two north of range twenty-seven west

The lot four of section thirty; the southwest quarter of the northeast quarter and the northwest quarter of the southeast quarter of section thirty-one; and the lot eleven of section thirty-three, containing one hundred nineteen and thirty-five-hundredths acres.

Township one hundred forty-three north of range twenty-seven west

The lot two of section six, containing forty-three and twenty-hundredths acres.

Township one hundred forty-four north of range twenty-seven west

The southwest quarter of the northeast quarter and the southwest quarter of the northwest quarter of section twenty-two; the south

half of the northeast quarter, the south half of the northwest quarter, the north half of the southeast quarter, and the east half of the southwest quarter of section twenty-five; the southeast quarter of the southeast quarter of section twenty-six; the lot four and the southeast quarter of the southwest quarter of section thirty-one; the southeast quarter of the southwest quarter of section thirty-two; the south half of the northeast quarter and the southeast quarter of section thirty-four; and the lots two, three, and four, the northwest quarter of the northeast quarter, the northwest quarter, and the northwest quarter of the southwest quarter of section thirty-five, containing one thousand one hundred seventy-one and thirty-eight-hundredths acres.

64 Township one hundred forty-five north of range twenty-seven west

The lots two, three, four, and five of section six; the lots one, two, three, and four, the north half of the northeast quarter, the southeast quarter of the northeast quarter, the southeast quarter of the southeast quarter, the east half of the northwest quarter, and the east half of the southwest quarter of section seven; the west half of the northwest quarter of section eight; the lots one and two, the north half of the northeast quarter, the southeast quarter of the northeast quarter, and the northeast quarter of the northwest quarter of section eighteen; and the northeast quarter of the northeast quarter of section twenty-five, containing nine hundred fifty-nine and thirty-seven-hundredths acres.

Township one hundred forty-six north of range twenty-seven west

The lots three, four, and five and the southeast quarter of the northwest quarter of section twenty-one; the lots three, four, and six and the south half of the southwest quarter of section twenty-two; the lot nine of section twenty-four; the lots five, six, and seven of section twenty-six; the lots one, two, three, four, five, six, and seven, the southwest quarter of the northeast quarter, the north half of the northwest quarter, and the southeast quarter of the northwest quarter of section twenty-seven; the north half of the northeast quarter, the southeast quarter of the northeast quarter, and the northeast quarter of the southeast quarter of section twenty-eight; the north half of the northeast quarter, the southeast quarter of the northeast quarter, the north half of the southeast quarter,
65 and the southeast quarter of the southeast quarter of section thirty-four; and the northwest quarter of the northwest quarter, the northwest quarter of the southeast quarter, and the northwest quarter of the southwest quarter of section thirty-five, containing one thousand four hundred fifty-three and fifty-two-hundredths acres.

Township one hundred forty-seven north of range twenty-seven west

The northeast quarter of the northeast quarter of section twenty-five, containing forty acres.

Township one hundred forty-two north of range twenty-eight west

The east half of the southeast quarter of section twenty-five; and the southeast quarter of the northeast quarter of section twenty-seven, containing one hundred twenty acres.

Township one hundred forty-three north of range twenty-eight west

The lots one, two, and three of section one, containing seventy-eight acres.

Township one hundred forty-four north of range twenty-eight west

The lots three, four, five, six, eight, and nine, the southwest quarter of the northeast quarter, the southeast quarter of the northwest quarter, the northwest quarter of the southeast quarter, and the southeast quarter of the southeast quarter of section six; the lots one, two, three, and four, the east half of the northeast quarter, and the northeast quarter of the southeast quarter of section seven; the southwest quarter of the northwest quarter, the southwest quarter of the southeast quarter, the northwest quarter of the south-
66 west quarter, and the southwest quarter of the southwest quarter of section eight; the lot one of section eighteen; the northwest quarter of the southwest quarter and the south half of the southwest quarter of section twenty-five; the northeast quarter of the southeast quarter, the north half of the southwest quarter, and the southwest quarter of the southwest quarter of section twenty-six; the south half of the northeast quarter, the southwest quarter of the southeast quarter and the southeast quarter of the southwest quarter of section twenty-seven; the lot one, the south half of the northwest quarter, the northwest quarter of the southeast quarter, the northeast quarter of the southwest quarter, and the southeast quarter of the southwest quarter of section twenty-eight; the lots one, two, and three of section twenty-nine; the lots one, two, and three of section thirty-three; the lots one, two, and three of section thirty-four; and the lots four and five and the north half of the northwest quarter of section thirty-five, containing one thousand nine hundred twenty-six and sixteen-hundredths acres.

Township one hundred forty-five north of range twenty-eight west

The lot one of section seven; the lot one of section twelve; the lots one, two, three, and four, the east half of the southeast quarter, and the southwest quarter of the southeast quarter of section thirteen; the lots one and two of section seventeen; the lots one, two, five,

six, and seven of section eighteen; the southeast quarter, the lot one, and the southwest quarter of the southwest quarter of section twenty; the lots one, two, three, and four, the north half of the southeast quarter, the southeast quarter of the southeast quarter,
67 and the north half of the southwest quarter of section twenty-one; the lots one, two, and three and the west half of the southwest quarter of section twenty-two; the lots one, two, and three and the southeast quarter of the southeast quarter of section tweny-three; the lots one and two, the northwest quarter of the northeast quarter, the east half of the northwest quarter, the west half of the southeast quarter, and the southwest quarter of section twenty-four; the northeast quarter and the west half of the northwest quarter of section twenty-five; the lots one and two, the southwest quarter of the northeast quarter, and the southeast quarter of the northwest quarter of section twenty-six; the lots one and two, and the northwest quarter of the northwest quarter of section twenty-seven; the northeast quarter of the northeast quarter and the west half of the northwest quarter of section twenty-eight; the north half of the northeast quarter, the southeast quarter of the northeast quarter, and the southwest quarter of the northwest quarter of section twenty-nine; the southwest quarter of the southeast quarter of section thirty; and the southwest quarter of the southeast quarter and the east half of the southwest quarter of section thirty-one; containing two thousand eight hundred thirty-seven and eleven-hundredths acres.

Township one hundred forty-six north of range twenty-eight west

The lots one and two of section five; the lots one, two, three, and seven, the south half of the northeast quarter, and the southeast quarter of the southwest quarter of section six; the northwest quarter of the northeast quarter, the south half of the northeast quarter,
68 the northeast quarter of the southeast quarter, the west half of the southeast quarter, the east half of the southwest quarter, and the lots three, four, and five of section seven; the lot three of section eight; the east half of the northwest quarter, the southeast quarter of the southwest quarter, the lots one, two, three, four, seven, and nine of section eighteen; the lots two and six of section nineteen; and the lot one of section thirty, containing one thousand two hundred fifty-three and thirty-four hundredths acres.

Township one hundred forty-seven north of range twenty-eight west

The lots two, three, four, five, and nine, and the northeast quarter of the northwest quarter of section nineteen; the lot three of section twenty-eight; the lot nine and the southwest quarter of the southwest quarter of section twenty-nine; the lots six and seven, the southeast quarter of the southeast quarter, and the southeast quarter of the southwest quarter of section thirty; the lots one, two, three, four,

and five, the southwest quarter of the northeast quarter, the west half of the northwest quarter, and the northwest quarter of the southwest quarter of section thirty-two; and the lots five and six of section thirty-three, containing eight hundred forty-one and ninety-five hundredths acres.

Township one hundred forty-one north of range twenty-nine west

The northwest quarter of the southwest quarter of section one; the lot seven of section six and the lot five of section eight, containing fifty-five and eighty hundredths acres.

Township one hundred forty-three north of range twenty-nine west

The lots one, two, five, and six of section five; the lot six of
69 section six; the lots one, two, and three, the northeast quarter of the southeast quarter, and the south half of the southeast quarter of section twelve; the north half of the northeast quarter and the southwest quarter of the southeast quarter of section thirteen; the lots three and four of section fourteen; the northeast quarter of section twenty-four; the lot one of section twenty-five; and the lot three and the southeast quarter of the northeast quarter of section twenty-six, containing nine hundred twenty-one and twenty hundredths acres.

Township one hundred forty-four north of range twenty-nine west

The east half of the southwest quarter of section one; the lots one, two, and three of section thirteen; the lot one of section twenty-three; and the lots one and four of section thirty-three, containing two hundred eighty-four acres.

Township one hundred forty-five north of range twenty-nine west

The lots three, four, five, six, and seven, the south half of the northeast quarter, the southeast quarter of the northwest quarter, the north half of the southeast quarter, and the east half of the southwest quarter of section six; the lots one and two of section seven; the northwest quarter of the northeast quarter and the southeast quarter of the northeast quarter of section eleven; the southwest quarter of the southwest quarter of section twelve; the southwest quarter of the northeast quarter, and the west half of the northwest quarter of section thirteen; the lot two of section nineteen; the lot two and the northwest quarter of the southeast quarter of section twenty-two; the southeast quarter of the northwest quarter
70 and the north half of the southwest quarter of section twenty-three; the lots two and three of section twenty-five; the lots two and three of section twenty-seven; and the southeast quarter of the northwest quarter of section thirty, containing one thousand two hundred twenty-six and twenty-six-hundredths acres.

Township one hundred forty-six north of range twenty-nine west

The lots three and four, the south half of the northeast quarter, the south half of the northwest quarter, the east half of the southeast quarter, and the west half of the southwest quarter of section one; the lot one, the southeast quarter, and the northeast quarter of the southwest quarter of section two; the southwest quarter of the southeast quarter of section three; the lots one and two and the west half of the northeast quarter of section ten; the lots one, four, and five the northeast quarter, the northeast quarter of the southeast quarter, and the southwest quarter of the southeast quarter of section eleven; the southwest quarter of the northeast quarter, the northwest quarter, and the south half of section twelve; the lot two, the northeast quarter, the east half of the northwest quarter, the north half of the southeast quarter, and the southeast quarter of the southeast quarter of section thirteen; the northwest quarter of the northwest quarter of section fourteen; the east half of the northeast quarter of section fifteen; the south half of the southeast quarter of section nineteen; the northeast quarter of the southwest quarter and the southwest quarter of the southwest quarter of section twenty; the lot four of section twenty-four; the lots one, two, three, six, and eight of section twenty-five; the lots one and two, the southwest quarter of the northeast quarter, the southeast quarter, and the east half of the southwest quarter of section twenty-six; the north half of the northwest quarter of section twenty-nine; the lot two and the northeast quarter of the northwest quarter of section thirty-one; the lot four of section thirty-three; and the lots one, two, three, four, six, eight, nine, ten, and eleven of section thirty-five, containing three thousand two hundred fifty-one and ninety-six-hundredths acres.

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Township one hundred forty-seven north of range twenty-nine west

The lots four, five, and six and the southeast quarter of the northwest quarter of section twenty-three; the lots three, four, five, six, seven, eight, nine, ten, eleven, and twelve, the southeast quarter of the northwest quarter, and the northeast quarter of the southwest quarter of section twenty-four; the lots one, two, three, and four, the east half of the northwest quarter, and the southeast quarter of section twenty-five; and the northeast quarter of the northeast quarter, the north half of the southeast quarter, and the southeast quarter of the southeast quarter of section thirty-five, containing one thousand one hundred fifty-six and seventy-five-hundredths acres.

Township one hundred forty-three north of range thirty west

The lot two, the northeast quarter of the southeast quarter, and the south half of the southeast quarter of section one; the lots two and three of section eleven; the lots one and two of section twelve;

and the lot three of section fourteen, containing three hundred eighty-five and five-hundredths acres.

72 Township one hundred forty-four north of range thirty west

The lot three, the southeast quarter of the northwest quarter, the northwest quarter of the southeast quarter, the southwest quarter of the southeast quarter, and the northeast quarter of the southwest quarter of section two; the west half of the northeast quarter and the east half of the northwest quarter of section eleven; the south half of the southwest quarter of section twelve; the northwest quarter of the northeast quarter, the southeast quarter of the northwest quarter, the north half of the southwest quarter, and the southeast quarter of the southwest quarter of section thirteen; the southeast quarter of the northeast quarter, the northeast quarter of the northwest quarter, the south half of the northwest quarter, the west half of the southeast quarter, and the northeast quarter of the southwest quarter of section fourteen; the west half of the northeast quarter, the northeast quarter of the northwest quarter, the south half of the northwest quarter, the southwest quarter of the southeast quarter, and the southwest quarter of section twenty-three; the north half of the northwest quarter, the northeast quarter of the southwest quarter, and the south half of the southwest quarter of section twenty-six; the northwest quarter of the southeast quarter, the south half of the southeast quarter, and the southeast quarter of the southwest quarter of section twenty-eight; the southeast quarter of the northeast quarter and the south half of section thirty-two; all of section thirty-three; the west half of the northeast quarter, the northwest quarter, the lot three, and the northwest quarter of the southwest quarter of section thirty-four, and the lot one
73 of section thirty-five, containing three thousand forty-three and sixty-hundredths acres.

Township one hundred forty-five north of range thirty west

The lot one and the south half of the northeast quarter of section one; the lot one of section seven; the lot five and the southeast quarter of the northwest quarter of section eighteen; the lots one and two of section twenty-four; and the lot one of section twenty-five, containing two hundred eighty-two and sixty-seven hundredths acres.

Township one hundred forty-six north of range thirty west

The lot four and the southeast quarter of the southwest quarter of section three; the lots one and two of section four; the lots one and two and the southwest quarter of the southeast quarter of section five; the lot four of section twenty-eight; and the lot five of section

thirty-three, containing three hundred seventy-seven and two-hundredths acres.

Township one hundred forty-seven north of range thirty west

The lot three section nineteen, containing twenty-nine and forty-seven hundredths acres.

Township one hundred forty-three north of range thirty-one west

The lots one, two, three, and four, the south half of the northeast quarter, the south half of the northwest quarter, and the south half of section one; the lots two, three, six, and seven, the south half of the northeast quarter, the north half of the southeast quarter, and the southeast quarter of the southeast quarter of section two;
74 the lots three, four, and five, the southwest quarter of the northeast quarter, the south half of the northwest quarter, the northwest quarter of the southeast quarter, and the north half of the southwest quarter of section three; the lots one, two, three, and seven, the southeast quarter of the northeast quarter, and the northeast quarter of the southeast quarter of section four; the lots one and two of section eleven; the northwest quarter of the northwest quarter of section twelve; the southwest quarter of the southwest quarter of section twenty-four; the northwest quarter of the northwest quarter of section twenty-five; and the lot one of section twenty-nine, containing one thousand nine hundred twenty-two and eighteen-hundredths acres.

Township one hundred forty-four north of range thirty-one west

The south half of the northeast quarter of section twenty; the northwest quarter of the northwest quarter of section twenty-one; the southeast quarter of the northwest quarter and the northeast quarter of the southeast quarter of section twenty-three; the lots one, three, four, and five, and the southwest quarter of section twenty-six; the east half of the northwest quarter, the southeast quarter, and the north half of the southwest quarter of section twenty-seven; the southeast quarter of the northeast quarter, the northeast quarter of the northwest quarter, and the southeast quarter of the southeast quarter of section twenty-eight; the east half, the northwest quarter of the northwest quarter, and the east half of the southwest quarter of section thirty-three; the lots one, two, and three, the north half of the northeast quarter, the southwest quarter of the northeast quarter, the west half, and the northwest quarter of the southeast
75 quarter of section thirty-four; and the lots one, two, three, and four of section thirty-five, containing two thousand forty-seven and seventy-five hundredths acres.

Township one hundred forty-five north of range thirty-one west

The lot four and the northwest quarter of the northeast quarter of section fourteen; the lots two, three, and four and the northwest quarter of the southwest quarter of section twenty-seven; and the northeast quarter of the southeast quarter of section twenty-eight, containing two hundred eighty-one and thirty-five hundredths acres.

Township one hundred forty-six north of range thirty-one west

The southeast quarter of the southwest quarter of section five; the southwest quarter of the northeast quarter of section six; the lot four of section seven; the northeast quarter of the southeast quarter of section twenty; and the northwest quarter of the northeast quarter of section twenty-three, containing one hundred ninety-seven and seventy hundredths acres.

Township one hundred forty-seven north of range thirty-one west

The lot eight, the northwest quarter of the southeast quarter, and the southeast quarter of the southeast quarter of section nineteen; the lot nine and the southwest quarter of the southwest quarter of section twenty; the southeast quarter and the northeast quarter of southwest quarter of section twenty-one; the southeast quarter of the southeast quarter of section twenty-two; the lots two, five, six, and eight of section twenty-five; the northwest quarter of the
76 northeast quarter, the southeast quarter of the northeast quarter, the north half of the northwest quarter, and the southwest quarter of the northwest quarter of section twenty-six; the south half of the northeast quarter and the northeast quarter of the southeast quarter of section twenty-seven; the lot four of section twenty-eight; the lots one and two of section twenty-nine; the lot one, the north half of the northeast quarter, the southeast quarter of the northeast quarter, the northeast quarter of the northwest quarter, and the northeast quarter of the southeast quarter of section thirty; the northeast quarter of the northeast quarter of section thirty-one; the lots one and two and the southeast quarter of the northwest quarter of section thirty-two; the lot one of section thirty-three; and the lot five and the northeast quarter of the northeast quarter of section thirty-four, containing one thousand three hundred eleven and forty hundredths acres.

Township one hundred forty-six north of range thirty-two west

The southeast quarter of the southeast quarter of section twelve; and the northeast quarter of the northeast quarter of section thirteen, containing eighty acres.

Patent No. 197, dated March 30, 1911, issued upon approved list No. 196, Crookston, and purporting to convey 13,937.87 acres, the

same being unceded White Earth Reservation lands, described as follows:

Fifth principal meridian.

Township one hundred forty-one north of range thirty-seven west

The lot three of section thirty-two, containing eighteen and forty-five hundredths acres.

77 Township one hundred forty-two north of range thirty-seven west

The lot one of section twenty-six, containing twenty-two and twenty-five hundredths acres.

Township one hundred forty-one north of range thirty-eight west

The northwest quarter of the northeast quarter of section thirty, containing forty acres.

Township one hundred forty-three north of range thirty-eight west

The lot three of section fifteen; the southwest quarter of the southwest quarter of section twenty-eight; the southeast quarter of the southeast quarter of section twenty-nine; and the northeast quarter of the northeast quarter of section thirty-two, containing one hundred forty-nine and eighty-five hundredths acres.

Township one hundred forty-four north of range thirty-eight west

The lots three and four, the northwest quarter of the southeast quarter, and the northwest quarter of the southwest quarter of section one; the lots one, two, three, and four, the southeast quarter of the northeast quarter, the south half of the northwest quarter, the northeast quarter of the southeast quarter, the northeast quarter of the southwest quarter, and the southeast quarter of the southwest quarter of section two; the lot five and the northwest quarter of the southwest quarter of section three; the northeast quarter of the southeast quarter of section four; the lots three and four of section five; the lots one and seven and the southeast quarter of the
78 southeast quarter of section six; the northwest quarter, the north half of the southeast quarter, and the south half of the southwest quarter of section eleven; the southwest quarter of section twelve; the northwest quarter of the northwest quarter of section thirteen; the northwest quarter of the northeast quarter, the southeast quarter of the northeast quarter, and the northeast quarter of the northwest quarter of section fourteen; and the northwest quarter of the northeast quarter and the southeast quarter of the northeast quarter of section twenty-four, containing one thousand four hundred ninety-nine and ninety-eight hundredths acres;

Township one hundred forty-five north of range thirty-eight west

The lot four of section one; the south half of the southeast quarter of section ten; the west half of the southwest quarter of section eleven; the west half of the northeast quarter, the south half of the northwest quarter, and the west half of the southeast quarter of section fourteen; the lots one, two, three, and four and the northeast quarter of the northeast quarter of section fifteen; the southwest quarter of the northwest quarter of section seventeen; the lots three and four of section eighteen; the lot three of section nineteen; the south half of the southeast quarter and the southwest quarter of section twenty-one; the lots two, three, and four and the northwest quarter of the northwest quarter of section twenty-two; the lots one, two, three, and four, the northeast quarter of the southeast quarter, and the south half of the southeast quarter of section twenty-three;
79 the southwest quarter of the southeast quarter and the southwest quarter of section twenty-four; the northwest quarter of the northeast quarter, the south half of the northeast quarter, the east half of the southeast quarter, and the north half of the southwest quarter of section twenty-five; the lots two, three, and four and the south half of the northeast quarter of section twenty-six; the lots one, two, three, and four and the west half of the northwest quarter of section twenty-seven; the northeast quarter, the north half of the northwest quarter, and the south half of section twenty-eight; the south half of the northeast quarter, the east half of the southeast quarter, and the west half of the southwest quarter of section twenty-nine; the southeast quarter of the southeast quarter of section thirty; the east half of the northeast quarter, the southeast quarter, and the east half of the southwest quarter of section thirty-one; the west half of the northwest quarter, the northeast quarter of the southeast quarter, the southwest quarter of the southeast quarter, the northwest quarter of the southwest quarter, and the south half of the southwest quarter of section thirty-two; the north half of the northeast quarter, the southwest quarter of the northeast quarter, the northwest quarter of the southeast quarter, and the north half of the southwest quarter of section thirty-three; the lots one, two, three, and four, the west half of the northwest quarter, and the southwest quarter of the southeast quarter of section thirty-four; and the lots one, two, three, and four, the northeast quarter of the northwest quarter, and the northeast quarter of the southeast quarter of section thirty-five, containing four thousand five hundred thirty and twenty-eight hundredths acres.

80 Township one hundred forty-six north of range thirty-eight west

The northwest quarter of the southwest quarter of section fourteen; the southeast quarter of the northeast quarter and the northeast

quarter of the southeast quarter of section fifteen; the south half of the southeast quarter of section seventeen; the north half of the southwest quarter of section twenty-four; the south half of the northeast quarter, the northwest quarter of the northwest quarter, the south half of the northwest quarter, the northeast quarter of the southeast quarter, the south half of the southeast quarter, the northwest quarter of the southwest quarter, and the southeast quarter of the southwest quarter of section twenty-five; the lot three, the south half of the northwest quarter, the northeast quarter of the southeast quarter, the north half of the southwest quarter, and the southwest quarter of the southwest quarter of section twenty-six; and the lots two and three of section thirty-five, containing one thousand ten and seventy-five-hundredths acres.

Township one hundred forty-one north of range thirty-nine west

The northeast quarter of the southwest quarter of section seventeen; the lots two and three, the northwest quarter of the northeast quarter, and the south half of the southwest quarter of section twenty-nine; the lots one, two, three, five, and eight of section thirty; the lot four of section thirty-one; and the north half of the southeast quarter and the east half of the southwest quarter of section thirty-five, containing five hundred fifty-eight and eighty-nine-hundredths acres.

81 Township one hundred forty-two north of range thirty-nine west

The southeast quarter of the northeast quarter of section four; the southwest quarter of the southeast quarter and the south half of the southwest quarter of section seventeen; the lot two and the northeast quarter of the northeast quarter of section eighteen; the lots one, two, three, and the northwest quarter of the northwest quarter of section twenty; and the northwest quarter of the northeast quarter, the south half of the northeast quarter, and the northwest quarter of the southeast quarter of section thirty-four, containing five hundred seventy and twenty-five-hundredths acres.

Township one hundred forty-three north of range thirty-nine west

The lot five of section four; the lot one, the south half of the northeast quarter, and the northeast quarter of the northwest quarter of section seven; the south half of the southeast quarter and the southeast quarter of the southwest quarter of section nine; the northeast quarter of the northwest quarter of section thirty; and the northwest quarter of the southeast quarter of section thirty-one; containing four hundred one and thirteen-hundredths acres.

Township one hundred forty-four north of range thirty-nine west

The northwest quarter of the southeast quarter of section four; the southwest quarter of the northwest quarter of section thirteen; the lots three and four of section nineteen; the south half of the southwest quarter of section twenty-two; the north half of
82 the northwest quarter of section twenty-seven; and the lot one of section thirty, containing three hundred fifty-one and five-hundredths acres.

Township one hundred forty-five north of range thirty-nine west

The lots two and three of section one; the southwest quarter of the southeast quarter and the southeast quarter of the southwest quarter of section ten; the west half of the northeast quarter and the south half of section thirteen; the east half of the southeast quarter of section fourteen; the lots one, two, and three of section twenty-two; the south half of the northwest quarter and the lot one of section twenty-three; the lots six and seven of section twenty-four; the southwest quarter of the northeast quarter and the northwest quarter of section twenty-five; and the northwest quarter of the northeast quarter and the southwest quarter of the northwest quarter of section thirty-five, containing one thousand ninety-nine and sixty-four-hundredths acres.

Township one hundred forty-six north of range thirty-nine west

The southwest quarter of the southeast quarter, the northwest quarter of the southwest quarter, and the south half of the southwest quarter of section twenty-four; and the northwest quarter of the northwest quarter of section thirty-four, containing two hundred acres.

Township one hundred forty-one north of range forty west

The southeast quarter of the southeast quarter of section seven; the lot one of section twenty; the southeast quarter of the northeast quarter of section twenty-three; the lots five, six, and nine
83 of section thirty; the northwest quarter of the southeast quarter of section thirty-two; and the lot two of section thirty-five, containing two hundred eighty-two and ten-hundredths acres.

Township one hundred forty-two north of range forty west

The northeast quarter of the northeast quarter of section thirty-two, containing forty acres.

Township one hundred forty-three north of range forty west

The southeast quarter of the southeast quarter of section twelve; the lot one of section thirteen; the northwest quarter of the north-

west quarter of section fourteen; the lot four and the east half of the southwest quarter of section twenty-two; the lot one of section twenty-three; the lot one of section twenty-five; the north half of the southeast quarter and the southeast quarter of the southwest quarter of section twenty-seven; the lot one of section twenty-eight; the southeast quarter of the southeast quarter of section thirty-one; and the northwest quarter of the southwest quarter of section thirty-three, containing four hundred forty-seven and five-hundredths acres.

Township one hundred forty-five north of range forty west

The lot two and the southeast quarter of the southeast quarter of section two; the southeast quarter of section three; the lot four of section thirteen; and the southwest quarter of the southeast quarter of section twenty-three, containing three hundred seven and fifteen-hundredths acres.

84 Township one hundred forty-six north of range forty west

The lot one of section two; the lot eight of section four; the southwest quarter of the southwest quarter of section twelve; the northeast quarter of the northwest quarter of section twenty-two; the southeast quarter of the southeast quarter of section twenty-four; the northwest quarter of the northwest quarter of section twenty-five; the lots three and four and the east half of the southwest quarter of section thirty; and the northeast quarter of the southwest quarter of section thirty-five, containing four hundred thirty-eight and eighty-six-hundredths acres.

Township one hundred forty-one north of range forty-one west

The southwest quarter of the northwest quarter and the northwest quarter of the southwest quarter of section five; the southeast quarter of the northwest quarter, the north half of the southeast quarter, and the east half of the southwest quarter of section six; the northeast quarter of the southeast quarter of section twelve; and the lot one of section thirteen, containing three hundred fifty-eight acres.

Township one hundred forty-two north of range forty-one west

The southeast quarter of the northwest quarter and the lot two of section thirty, containing eighty-eight and fifty-four-hundredths acres.

Township one hundred forty-three north of range forty-one west

The lot one of section two; the northwest quarter of the southwest quarter of section three; the southeast quarter of the

85 southeast quarter of section five; the lot eight of section twenty-one; and the southwest quarter of the northeast quarter of section thirty-one, containing one hundred eighty-eight and nineteen-hundredths acres.

Township one hundred forty-four north of range forty-one west

The southwest quarter of the southwest quarter of section twelve, containing forty acres.

Township one hundred forty-five north of range forty-one west

The northwest quarter of the northeast quarter of section twenty, containing forty acres.

Township one hundred forty-six north of range forty-one west

The southeast quarter of the southeast quarter of section four; the northwest quarter of the southeast quarter of section twelve; the northeast quarter of the northeast quarter of section twenty; and the southeast quarter of the southeast quarter of section twenty-six, containing one hundred sixty acres.

Township one hundred forty-one north of range forty-two west

The southeast quarter of the southwest quarter of section ten; the northeast quarter of the southwest quarter of section twenty-eight; and the lot one and the southeast quarter of the southeast quarter of section thirty-four, containing one hundred thirty and twenty-five-hundredths acres.

Township one hundred forty-two north of range forty-two west

The lot one of section one; the southwest quarter of the northwest quarter and the west half of the southwest quarter of section
86 two; and the southeast quarter of the northeast quarter, the east half of the southeast quarter, and the northwest quarter of the southwest quarter of section three, containing three hundred nineteen and ninety-two-hundredths acres.

Township one hundred forty-three north of range forty-two west

The south half of the southeast quarter of section thirty-five, containing eighty acres.

Township one hundred forty-five north of range forty-two west

The lot two and the southwest quarter of the northeast quarter of section six, containing eighty and fifty-six-hundredths acres.

Township one hundred forty-six north of range forty-two west

The lot two and the southwest quarter of the northeast quarter of section twenty-one; the west half of the southwest quarter of section twenty-eight; the lots one, three, four, six, eight, nine, and ten of section twenty-nine; the lots three and four of section thirty; and the northwest quarter of the northwest quarter and the northeast quarter of the southeast quarter of section thirty-three, containing four hundred eighty-four and seventy-three-hundredths acres.

Patent No. 199, dated June 10, 1912, issued upon approved list No. 198, Cass Lake, and purporting to convey 25,358.44 acres, the same being Chippeway of the Mississippi, Leech Lake and Winnibigoshish lands ceded under the act of 1889, and described as follows:

87 Fifth principal meridian.

Township one hundred forty-four north of range twenty-five west

The lot eight of section fourteen, containing thirty-four and eleven-hundredths acres.

Township one hundred forty-five north of range twenty-five west

The lots one and two of section three; the southeast quarter of the northeast quarter and the north half of the southeast quarter of section five; the lots four, five, and six, the southeast quarter of the northwest quarter, and the northeast quarter of the southwest quarter of section six; the southeast quarter of the northeast quarter of section eight; the south half of the northeast quarter, the south half of the northwest quarter, the west half of the southeast quarter, the north half of the southwest quarter, and the southeast quarter of the southwest quarter of section nine; the northeast quarter of the northeast quarter, the south half of the northeast quarter, the northeast quarter of the northwest quarter, and the northeast quarter of the southeast quarter of section ten; the lot six and the southwest quarter of section eleven; the southeast quarter of the northwest quarter of section fourteen; the northwest quarter of the northeast quarter, the north half of the southeast quarter, the southwest quarter of the southeast quarter, and the southeast quarter of the southwest quarter of section nineteen; the northeast quarter of the southeast quarter of section twenty-one; the southeast quarter of the northeast quarter, the west half of the northwest quarter, the northeast quarter of the southeast quarter, and the north half of
88 the southwest quarter of section twenty-two; the northwest quarter of the southwest quarter of section twenty-six; the east half of the northwest quarter and the southwest quarter of the northwest quarter of section twenty-seven; the northwest quarter of the northeast quarter, the north half of the northwest quarter, and the northwest quarter of the southeast quarter of section twenty-

eight; the north half of the northeast quarter, the west half of the northwest quarter, the southeast quarter, the northwest quarter of the southwest quarter, and the south half of the southwest quarter of section twenty-nine; the north half of the northeast quarter and the southwest quarter of the northeast quarter of section thirty; the lot five of section thirty-one; the north half of the northeast quarter of section thirty-two; the north half of the northeast quarter, the north half of the northwest quarter, the northwest quarter of the southwest quarter, and the south half of the southwest quarter of section thirty-three; the north half of the northeast quarter, the southeast quarter of the northeast quarter, the northwest quarter, and the southwest quarter of the southwest quarter of section thirty-four; and the lots two and three and the south half of the southwest quarter of section thirty-five, containing three thousand four hundred ninety-three and forty-eight-hundredths acres.

Township one hundred forty-six north of range twenty-five west

The lots two, three, four, five, eight, and nine, the south half of the northwest quarter, and the southwest quarter of section two; the lot one, the southeast quarter of the northeast quarter, the north half of the southeast quarter, the southeast quarter of the southeast
89 quarter, and the southwest quarter of the southwest quarter of section three; the lots three and four, the southwest quarter of the northeast quarter, the south half of the northwest quarter, the northwest quarter of the southeast quarter, the south half of the southeast quarter, and the southwest quarter of section four; the lots three and four, the southwest quarter of the northeast quarter, the southwest quarter of the northwest quarter, the northeast quarter of the southeast quarter, and the northwest quarter of the southwest quarter of section five; the lots one, two, five, six, and seven, the southeast quarter of the northeast quarter, the northeast quarter of the southeast quarter, the southwest quarter of the southeast quarter, and the east half of the southwest quarter of section six; the lots two, three, and four, the west half of the northeast quarter, the northeast quarter of the northwest quarter, the southwest quarter of the southeast quarter, and the east half of the southwest quarter of section seven; the northeast quarter, the northeast quarter of the northwest quarter, and the northeast quarter of the southeast quarter of section nine; the northeast quarter of the northeast quarter, the south half of the northeast quarter, the northwest quarter, and the south half of section ten; the lots two, three, six, and seven, and the west half of section eleven; the lots two, three, six, and seven, the north half of the northwest quarter, the southeast quarter of the northwest quarter, and the east half of the southwest quarter of section fourteen; the east half and the northeast quarter of the northwest quarter of section fifteen; the lot one, the west half of the northeast quarter, the east half of the northwest quarter, and the southeast quarter of the southeast quarter of section eigh-

90 teen; the north half of the northeast quarter and the southeast quarter of the northeast quarter of section twenty-two; the lots two, three, six, and seven, and the west half of section twenty-three; the lots two, three, six, and seven, the north half of the northwest quarter, the southeast quarter of the northwest quarter, and the east half of the southwest quarter of section twenty-six; the northwest quarter of the northeast quarter of section twenty-seven; the lot four of section thirty-one; the south half of the southeast quarter and the south half of the southwest quarter of section thirty-four; and the lots two and three and the southeast quarter of the northwest quarter of section thirty-five, containing six thousand eighty-two and sixty-one-hundredths acres.

Township one hundred forty-seven north of range twenty-five west

The lots four and five, the southwest quarter of the northeast quarter, and the east half of the southeast quarter of section twenty-one; the northeast quarter, the east half of the northwest quarter, and the south half of section twenty-two; the lot three, the southwest quarter of the northwest quarter, the northwest quarter of the southwest quarter, and the southeast quarter of the southwest quarter of section twenty-three; the lot seven of section twenty-six; the south half of the northeast quarter, the south half of the northwest quarter, and the southwest quarter of section twenty-seven; the north half of the northeast quarter, the southeast quarter of the northeast quarter, and the southeast quarter of section twenty-eight; the lot six of section twenty-nine; the lot one of section thirty; the northeast quarter of the northeast quarter, the northwest quarter of the northwest quarter, and the southwest quarter of the southwest
91 quarter of section thirty-two; the north half of the northwest quarter of section thirty-three; the east half of the northeast quarter and the east half of the southeast quarter of section thirty-four; and the lots two, three, six, and seven and the west half of section thirty-five, containing two thousand three hundred four and seven-hundredths acres.

Township one hundred forty-five north of range twenty-six west

The lots one, two, three, and four, the south half of the northeast quarter, the south half of the northwest quarter, the southeast quarter, the north half of the southwest quarter, and the southeast quarter of the southwest quarter of section one; the lot one and the east half of the southeast quarter of section two; the lot five and the southwest quarter of the southeast quarter of section four; the northeast quarter of the northeast quarter of section eleven; the northwest quarter of the northeast quarter, the south half of the northeast quarter, the northwest quarter, the north half of the southwest quarter, the southeast quarter of the southwest quarter, and the southeast quarter of

section twelve; the east half, the east half of the northwest quarter, the northeast quarter of the southwest quarter, and the south half of the southwest quarter of section thirteen; the southwest quarter of the northwest quarter of section twenty-one; the lot two of section twenty-two; the northeast quarter, the north half of the northwest quarter, and the southeast quarter of the northwest quarter of section twenty-four; the lot four of section twenty-five; the lot four of section twenty-seven; and the lot five of section thirty-three, containing two thousand three hundred ninety-six and twenty-seven-hundredths acres.

92 Township one hundred forty-six north of range twenty-six west

The lots six and ten, the south half of the northeast quarter, the southeast quarter, and the east half of the southwest quarter of section one; the lots nine and ten of section two; the lot four of section nine; the lots five, six, and seven, the south half of the southeast quarter, the northwest quarter of the southeast quarter, and the south half of the southwest quarter of section ten; the lot two, the northeast quarter of the northwest quarter, and the southwest quarter of the southwest quarter of section eleven; the northeast quarter, the east half of the northwest quarter, the north half of the southeast quarter, and the southeast quarter of the southeast quarter of section twelve; the southwest quarter of the northwest quarter and the southwest quarter of section thirteen; the northwest quarter of the northeast quarter, the south half of the northeast quarter, the northwest quarter, and the south half of section fourteen; the east half, the north half of the northwest quarter, the southeast quarter of the northwest quarter, and the north half of the southwest quarter of section fifteen; the northeast quarter, the southeast quarter of the northwest quarter, the southeast quarter, and the east half of the southwest quarter of section twenty-two; section twenty-three; the west half of the northeast quarter, the northwest quarter, and the south half of section twenty-four; section twenty-five; the north half of the northeast quarter and the north half of the northwest quarter of section twenty-six and the north half of the southeast quarter of section thirty, containing five thousand eighty-five and ninety-hundredths acres.

93 Township one hundred forty-seven north of range twenty-six west

The lot one of section one; the southeast quarter of the northeast quarter of section two; the southwest quarter of the northwest quarter of section four; the lot two and the south half of the northeast quarter of section five; the southwest quarter of the southeast quarter of section nine; the lots one and two of section fourteen; the southeast quarter of the southwest quarter of section twenty-one; the

northwest quarter of the northwest quarter, the south half of the southeast quarter, and the south half of the southwest quarter of section twenty-seven; the northeast quarter of the northeast quarter and the south half of the southwest quarter of section twenty-eight; the northwest quarter of the northeast quarter and the northeast quarter of the northwest quarter of section thirty-three; the northeast quarter, the west half of the northwest quarter, the northwest quarter of the southeast quarter, the southwest quarter of the southeast quarter, the north half of the southwest quarter, and the southeast quarter of the southwest quarter of section thirty-four; and the northwest quarter of the northwest quarter, the southeast quarter of the southeast quarter, and the south half of the southwest quarter of section thirty-five, containing one thousand three hundred sixty-three and sixty-eight-hundredths acres.

Township one hundred forty-eight north of range twenty-six west

The lots one and twelve and the south half of the northeast quarter of section six; the southwest quarter of the southeast quarter of section twenty-one; the southwest quarter of the southwest quarter of section twenty-three; the northwest quarter of
94 the northwest quarter of section twenty-five; the lot one and the northwest quarter of the southwest quarter of section twenty-seven; the lot three of section thirty-four; and the northeast quarter of the southeast quarter of section thirty-five, containing four hundred eleven and ninety-eight-hundredths acres.

Township one hundred forty-eight north of range twenty-seven west

The lot eight of section four, containing twenty-one and thirty-six-hundredths acres.

Township one hundred forty-eight north of range twenty-eight west

The lot four of section one; the lot three and the northeast quarter of the southeast quarter of section seven; the southeast quarter of the southwest quarter of section eight; the north half of the northwest quarter of section seventeen; the south half of the northeast quarter, the north half of the southeast quarter, and the southeast quarter of the southeast quarter of section eighteen; the north half of the northeast quarter of section nineteen; the north half, the southeast quarter, and the east half of the southwest quarter of section twenty; the southwest quarter of the northwest quarter and the southwest quarter of the southeast quarter of section twenty-one; the west half of section twenty-seven; the north half, the north half of the southeast quarter, and the northeast quarter of the southwest quarter of section twenty-eight; and the north half of the northeast quarter, the southeast quarter of the northeast quarter, the east half of the northwest quarter, and the northeast quarter of the

southwest quarter of section twenty-nine, containing two thousand one hundred forty-four and three-hundredths acres.

95 Township one hundred forty-four north of range twenty-nine west

The lot four of section one and the lot four of section six, containing eighty and thirty-eight hundredths acres.

Township one hundred forty-five north of range twenty-nine west

The southeast quarter of the southwest quarter of section two; the lot two of section six; the lots two and three and the southwest quarter of the southwest quarter of section fifteen; the lots four, six, and seven and the southeast quarter of the northeast quarter of section eighteen; the lot one of section nineteen; the lots two and three, the northeast quarter of the northwest quarter, and the east half of the southwest quarter of section thirty; and the northeast quarter of the northwest quarter of section thirty-one, containing five hundred forty-two and nineteen hundredths acres.

Township one hundred forty-six north of range twenty-nine west

The southwest quarter of the northwest quarter of section three; the lot four of section four; the lots three, four, and eight, the southwest quarter of the northwest quarter, and the north half of the southwest quarter of section five; the northeast quarter of the northwest quarter of section eight; the lot one, the east half of the northeast quarter, the southwest quarter of the northeast quarter, and the south half of the southeast quarter of section nine; the lot three and the north half of the southwest quarter of section ten; the lot two and the east half of the northwest quarter of section eleven; the southeast quarter of the northwest quarter and the
96 southwest quarter of the southwest quarter of section fifteen; the southwest quarter of the northwest quarter, the northwest quarter of the southeast quarter, the northwest quarter of the southwest quarter, and the southeast quarter of the southwest quarter of section twenty; the lot ten of section thirty; and the lot four of section thirty-one, containing one thousand one hundred fifty and twenty-seven hundredths acres.

Township one hundred forty-one north of range thirty west

The southeast quarter of the southeast quarter of section thirteen, containing forty acres.

Township one hundred forty-five north of range thirty west

The northeast quarter of the northeast quarter and the southwest quarter of the southeast quarter of section thirteen and the south-

east quarter of the southeast quarter of section fourteen, containing one hundred twenty acres.

Township one hundred forty-five north of range thirty-one west

The lot one of section four, containing fourteen acres.

Township one hundred forty-three north of range thirty-two west

The lot ten and the southeast quarter of the southwest quarter of section one, containing seventy-four and eleven hundredths acres.

97 *Exhibit B to complaint*

Swamp lands within the Leech Lake, Cass Lake, and Winnibigoshish reservations, as created by the treaty of 1855, patented to the State of Minnesota:

Fifth principal meridian.

Township one hundred and forty-six north, range twenty-six west

Lots three and four, the southwest quarter of the northeast quarter, the southeast quarter of the northwest quarter, and the north half of the southeast quarter of section four, comprising two hundred and thirty-five and sixty-hundredths acres.

Township one hundred and forty-three north, range twenty-seven west

Lot two of section six, containing forty-three and twenty-hundredths acres.

Township one hundred and forty-two north, range twenty-eight west

The southeast quarter of the northeast quarter and the southeast quarter of the northwest quarter of section twenty-one; the northeast quarter of the northeast quarter and the south half of the northwest quarter of section twenty-two; and lot one of section twenty-three, comprising in all two hundred and thirty-seven and forty-five-hundredths acres.

Township one hundred and forty-seven north, range twenty-nine west

Lots ten and eleven of section twenty-four; and lot one of section twenty-five, comprising in all one hundred and forty and ninety-five-hundredths acres.

98 Township one hundred and forty-one north, range thirty west

Lot five of section two, containing forty-eight and eighty-hundredths acres.

99 *Exhibit C to Complaint*

Patent No. 4, dated May 13, 1871, issued upon approved list No. 3, Taylor's Falls, and purporting to convey along with other lands lying outside the reservation, 701.55 acres, the same being Mille Lac Reservation lands ceded under the act of 1889, and described as follows:

Fifth principal meridian.

Township forty-three north, of range twenty-seven west

The lots two and three of section eighteen; the lot four of section twenty-one; the northeast quarter of the northwest quarter, the lot four, and the southwest quarter of the southwest fractional quarter of section twenty-eight; the southwest quarter of the northwest quarter of section twenty-nine; the west half of the southeast quarter, and the east half of the southwest fractional quarter of section thirty; the northeast quarter, and the northeast quarter of the northwest fractional quarter of section thirty-one; the northeast quarter of the northeast quarter, and the southeast quarter of the southeast quarter of section thirty-two, and the northwest quarter of the northwest fractional quarter of section thirty-three, containing in all seven hundred and one acres, and fifty-five hundredths of an acre.

100 May 7, 1923, Appearance of Attorney General entered for the complainant

May 10, 1923, Subpœna issued to marshal

Subpœna and marshal's return

Filed May 17, 1923

THE UNITED STATES OF AMERICA, *ss:*

The President of the United States, to the State of Minnesota, greeting:

For certain causes offered before the Supreme Court of the United States, having jurisdiction in equity, you are hereby commanded that, laying all other matters aside and notwithstanding any excuse, you be and appear before the said Supreme Court, holding jurisdiction in equity, on Monday, October 1st, 1923, at the City of Washington, in the District of Columbia, being the seat of the National Government of the United States, to answer unto a bill of complaint of the United States of America in the said court exhibited against you.

Hereof you are not to fail at your peril.

Witness the Honorable William H. Taft, Chief Justice of the United States, at the City of Washington, the 10th day of May, A. D. 1923.

[SEAL.] WM. R. STANSBURY,
Clerk of the Supreme Court of the United States.

Service of the above subpœna and a certified copy of the bill of complaint therein mentioned are this 14th day of May, 1923, accepted and acknowledged.

J. A. V. PREUSS,
Governor of the State of Minnesota.

101 Service of the above subpoena and a certified copy of the bill of complaint therein mentioned are this 14th day of May, 1923, accepted and acknowledged.

CLIFFORD L. HILTON,
Attorney General of the State of Minnesota.

OFFICE OF THE MARSHAL,
SUPREME COURT, U. S.

Came to my hand the 10th day of May, 1923, and executed through acceptance or service in writing by J. A. V. Preuss, Governor of the State of Minnesota, and Clifford L. Hilton, Attorney General of the State of Minnesota, on the 14th day of May, 1923.

Witness my hand this 17th day of May, 1923, at the City of Washington.

FRANK K. GREEN,
Marshal, Supreme Court, U. S.

Sept. 19, 1923. Appearance of Charles R. Pierce entered for the defendant

Order granting leave to file answer

Filed Oct. 1, 1923

Leave granted defendant to file answer on or before October 29th next.

Order granting leave to file answer

Filed Nov. 12, 1923

Leave granted to file answer.

102 [Title omitted.]

Motion for leave to file answer

Filed Nov. 12, 1923

Comes now the State of Minnesota, by its attorney general, and moves that the State be permitted to file the attached answer to the

bill of complaint of the United States of America filed in this court against the State of Minnesota. The said answer is attached herewith and submitted with this motion.

CLIFFORD L. HILTON,
Attorney General,
MONTREVILLE J. BROWN,
Assistant Attorney General,
Attorneys for Defendant,
102 State Capitol, St. Paul, Minnesota.

C. R. PIERCE,
Of counsel,
Metropolitan Bank Building, Washington, D. C.

103 [Title omitted.]

Answer to bill of complaint—Filed Nov. 12, 1923

Comes now the State of Minnesota, the defendant in the above entitled cause, and for its answer to the bill of complaint of plaintiff herein respectfully represents and shows to the court as follows:

I

1. Defendant admits that on and long prior to February 22, 1855, the United States was the owner in fee of certain lands lying in the northern, central, and western parts of the then territory of
104 Minnesota; and admits that portions of said lands were on and prior to said date occupied by the Mississippi, Pillager, and Lake Winnibigoshish bands of Chippewa Indians. Defendant admits that a treaty was made with said bands of Indians on February 22, 1855, ratified by the Senate on March 3, 1855, and proclaimed by the President on April 7, 1855 (10 Stat. 1165); and that said treaty made provision with respect to cession of lands, allotments, and reservations, as alleged in paragraph 1 of Subdivision I of said bill of complaint, and that by Article VII thereof it was expressly provided that the laws of the United States prohibiting the introduction, manufacture, or use of liquors in the Indian country should continue in force throughout the ceded territory until otherwise provided by Congress. Defendant further admits that no provision was made by said treaty for the removal of said Indians to the reservations created thereby. It is denied that there was anything contained in said treaty indicating an expectation that said Indians would continue for an indefinite period of time in the occupancy of said ceded lands.

2. Defendant is without knowledge as to the assertions set forth in paragraph 2 of Subdivision I of said bill: That the nine small reservations created by the treaty of 1855 were, in fact, inadequate for the needs and requirements of said Indians; that when the treaty became known to them, they displayed great dissatisfaction

105 therewith, with resultant complaints, protest and objections to various Federal officials; that the principal terms of the treaty were never, in fact, carried out; that no allotments were ever made thereunder; that said Indians were never removed to the small reservations created by the treaty, and that no order for their removal thereto was ever made by the President or other Federal official; and that the Federal Government acquiesced in the alleged continued occupancy and use of said ceded lands by said Indians.

It is admitted that Minnesota was admitted to the Union as a State in 1858; and that Congress by the act of March 12, 1860 (12 Stat. 3), extended the swamp land grant of 1850 (9 Stat. 519), to her, subject to certain modifications; all as alleged in said paragraph 2.

Defendant admits the allegations of said paragraph with respect to the surveying of said ceded lands; but denies that no measures were taken to identify, segregate, and select the swamp lands situated within the borders of said ceded lands as in said paragraph alleged. Defendant's position with reference to identifying, segregating, and selecting said swamp lands will be stated later on and at a more appropriate point in this answer.

3. Defendant admits that following the treaty of 1855 the United States entered into negotiations with said bands of Indians, with the result that a new treaty was entered into on March 11, 1863, ratified by the Senate on March 13, 1863, with amendments, and proclaimed by the President on March 18, 1863 (12 Stat. 1249).

106 Defendant admits that the provisions of said treaty with respect to cession of lands and reservations are as alleged in paragraph 3 of Subdivision I of said bill. As to the allegation of said paragraph that the reservations created by said treaty of 1855 were inadequate, defendant states that it is without knowledge.

4. Defendant states that it is without knowledge as to the allegations of paragraph 4 of Subdivision I of said bill to the effect that the treaty of 1863 almost immediately proved to be defective or unsatisfactory. Defendant admits that a new treaty was entered into on May 7, 1864, ratified by the Senate on February 9, 1865, and proclaimed by the President on March 20, 1865 (12 Stat. 1249), under the terms of which the reservation as created by the treaty of 1863 was enlarged by an extension of its boundaries westward as alleged in said paragraph 4.

5. Defendant admits that a fourth treaty was entered into with said bands of Indians on March 9, 1867, ratified by the Senate on April 8, 1867, and proclaimed by the President on April 18, 1867 (16 Stat. 719), as alleged in paragraph 5 of Subdivision I of said bill. Defendant admits the allegations of said paragraph with respect to the contents of said treaty; and admits that one of the reservations created thereby became known as the Leech Lake or Leech Lake, Pillager, and Winnibigoshish Reservation, and the other as the White Earth Reservation.

As to the allegation of said paragraph to the effect that
107 prior treaties had failed to meet the situation, defendant states that it is without knowledge.

6. Defendant admits the allegations of paragraph 6 of Subdivision I of said bill with reference to the White Earth Reservation and the lands composing the same, except such thereof as have to do with the location and survey of said lands, and as to these, defendant states that it is without knowledge.

7. Defendant admits the enlargement of the Leech Lake Reservation as alleged in paragraph 7 of Subdivision I of said bill; and that this reservation as so enlarged and the White Earth Reservation as established by the treaty of 1867 remained intact until January 14, 1889. Defendant further admits the removal of said Indians to these reservations as in said paragraph alleged; but states in connection with the allegation thereof that said Indians continued in the occupancy of said ceded lands after the treaty of 1855 the same as before until removed as aforesaid, that it is without knowledge.

8. Defendant admits that the act of January 14, 1889 (25 Stat. 642), contains provisions substantially as alleged in paragraph 8 of Subdivision I of said bill; and admits that negotiations followed the act with cessions of lands, including the four townships mentioned in said paragraph, the whole of the Leech Lake, Pillager, and Winnibigoshish Reservation, and other lands not here material.

9. It is admitted that surveys were made and that the lands
108 were divided into pine and agricultural lands as alleged in paragraph 9 of Subdivision I of said bill.

10. Defendant admits the allegations of paragraph 10 of Subdivision I of said bill in so far as they have reference to dry lands, but denies them in so far as they have reference to swamp lands.

11. With respect to the allegations of paragraph 11 of Subdivision I of said bill, defendant admits that following the cessions of 1889 she prosecuted before the Commissioner of the General Land Office and finally before the Secretary of the Interior, a claim to the lands covered thereby and also lands embraced within the said White Earth Reservation, ascertained to be swampy in character, and that said lands were thereafter patented to her; but denies that the Secretary of the Interior in patenting said lands to the State acted through error and mistake or without authority of law. On the contrary, it is alleged that said Secretary was not only authorized but required by the provisions of said swamp land act of 1850 as extended by said act of 1860 to issue said patents to said State, and as a consequence his acts in so doing were in all respects legal.

The allegation of said paragraph that the Secretary of the Interior proceeded conjointly with the authorities and agents of the State of Minnesota to identify and segregate said swamp lands, is denied. On the contrary, it is alleged that the matter of identifying and segregating said swamp lands was at all times handled under the exclusive jurisdiction of said Secretary; that the State never

109 took any part therein and never had anything to do therewith, and at all times was held bound with respect thereto by the ultimate determination of said Secretary.

12. Defendant admits that patents were issued as stated in paragraph 12 of Subdivision I of said bill, and that the lands covered thereby are as described in Exhibit A attached to said bill.

13. Defendant denies that the three small reservations mentioned in paragraph 13 of Subdivision I of said bill remained wholly intact up to the time of the final cession made under the act of 1889. The lands embraced within said reservations were ceded by the Indians under the treaty of 1863, and the reservations were thereby terminated. Said lands were included within the reservation created by said treaty, again ceded under the treaty of 1864 and again included within the reservation created by that treaty. The same thing occurred in 1867 under the treaty entered into that year. Said lands were finally ceded pursuant to negotiations following said act of 1889. It is admitted that the swamp lands within said territory, 706 acres in extent, were patented as such to the State in 1871, and erroneously so. It is denied that plantiff is entitled to recover the same, or the value thereof, for and on behalf of said Indians; this for the reason that plaintiff is barred by its neglect and delay in prosecuting in the courts a claim therefor.

14. Defendant admits that she has sold considerable quanti-
110 ties of timber from certain of the lands patented to her as aforesaid. It is alleged that the proceeds derived therefrom have been placed in trust funds in compliance with the provisions of section 2, article 8 of her constitution, and loaned out in the same way as are the proceeds derived from the sale of swamp lands, which will be hereinafter briefly considered in connection with allegations relative to the sale of such lands. A copy of said article 8 is hereto attached and made a part hereof, marked "Exhibit A." It is denied that these proceeds or a sum equal thereto belong to the Chippewa Indians of Minnesota, and it is alleged that defendant is in no way and for no purpose whatsoever accountable to said plaintiff or said Indians therefor.

Defendant alleges that she has not since this suit was commenced and will not during its pendency sell any more timber from said lands; that she will await the decision of the court herein and be guided thereby with respect to her rights to dispose of timber now standing upon said lands.

II

Defendant admits the allegations of fact set forth in paragraphs 1, 2 and 3 of Subdivision II of said bill.

III

With reference to the allegations of paragraphs 1 and 2 of Subdivision III of said bill, defendant alleges that the matter of iden-

tifying and selecting the swamp lands granted to Minnesota
111 under said act of 1860 was taken up by the Commissioner of the General Land Office, acting under direction of the Secretary of the Interior, on May 21, 1860, in a communication addressed to the Governor of the State of Minnesota, reading in part as follows:

"Preliminary to the adjustment of the business with the several States affected by the general grant, two propositions were submitted designed to obtain a plan or basis which should be adhered to and be conclusive in the settlement of the great interests involved:

"1st. Whether the States would be willing to abide by the field notes of the surveys as designating the lands, or

"2nd. Whether in the event of their nonacceptance of these notes as the basis the States should furnish evidence that any lands are of the character embraced by the grant.

"The privilege of accepting one or the other of these propositions having been accorded to those States the same is extended to Minnesota.

"Having experience in the adjustment of the grant with those States it is respectfully suggested by this office that by the adoption of the first proposition the State will receive all the lands to which she is justly entitled, as the field notes of the survey are very full in characterizing or giving description to the soil; and an important reason for doing so is that she will incur no expense in selecting or designating the lands."

On July 14, 1860, the Governor of Minnesota, in answer to this communication, submitted to said commissioner the following inquiries:

112 "If the State of Minnesota should elect to be governed in the selection of the lands allotted to her by the notes and plats of survey in the land office, would the General Government also be concluded by this selection? Would a patent issued to the State preclude individuals thereafter taking any of these lands, upon showing that in fact they were not swamp lands?"

which were answered by him on October 8, 1860, in this way:

"In reply to your letter of the 14th ulto., relative to the lands granted to the State of Minnesota as swamp, * * * I have to state, by whichever of the two modes submitted the lands may be selected, the General Government reserves to itself the right to supervise the selecting, and holds them subject to its control until they shall have been approved and patented to the State."

As a result of this correspondence, the legislature of the State of Minnesota at its 1862 session enacted chapter 62, general laws of Minnesota for the year 1862, section 48 of which provided that

"The surveys on file in the surveyor general's office are hereby adopted as the basis upon which will be accepted the swamp lands granted to the State by the act of Congress of March 12th, 1860."

The Governor of the State soon thereafter in a letter to said commisisoner advised him of this action, and among other things said:

113 "I have, therefore, to inform you that the State of Minnesota will, under the act of Congress of March 12, 1860, * * * abide by the field notes of the Government surveys, designating the lands, etc., and I have, therefore, to ask that you will direct immediate steps to be taken to confirm in Minnesota the title to these lands."

On December 4, 1877, the Secretary of the Interior, in a letter addressed to said Commissioner of the General Land Office, said:

"The action of the Legislature of Minnesota, approved by the chief executive of the State, was, so far as the power existed in the grantee, a selection by her of the lands granted. All that remained to be done in the premises, where lands had been surveyed prior to March 12, 1860, was merely the clerical duty of preparing the lists of lands thus enuring to the State, and the issuing of a patent for the same * * * duties that in the ordinary course of the administration of the laws pertaining to our land system would take much time. * * *

"This department invited the State to adopt a certain method of ascertaining what lands enure to her under a grant. The State having complied with the suggestion, exhausted her power to act in the premises, and the department is barred from asserting that, because of its laches and delay in identifying the lands, the selection has not been made within the prescribed time. The Government is not in a position to raise that question.

* * * * * * *

114 "The principles announced in this letter should govern in the adjustment of the swamp grant to the State of Minnesota."

The interpretation so given to the action of the State in electing to abide by the field notes of the Government surveys, pursuant to the invitation and suggestions of the Department of the Interior, was thereafter and throughout the administration of the grant has been consistently followed and adhered to by those charged with the duty of administering said grant without question as to its soundness.

Further answering the allegations of said paragraphs 1 and 2 of said Subdivision III, defendant alleges that until 1886 the practice was to determine the State's title to lands under said grant of 1860 in accordance with the disclosures made by the field notes of the Government surveys; that following the decision in the case of Lachance v. The State of Minnesota (4 L. D. 479), handed down in 1886, there was a departure from this practice. Thereafter and until 1903 a settler, an applicant under the public land laws, or the United States, was permitted to question the returns of the United States surveyor as to the character of any given piece of land. That there was no regulation promulgated or procedure adopted whereby

the State could question such returns; and the State throughout this period was held bound by the field notes, notwithstanding they might in a given case be erroneous to the State's loss. That
115 under the new practice the Secretary of the Interior adopted the plan of identifying swamp lands by examinations by agents in the field and by contests and hearings before the Land Department; that the State at all times protested against this scheme of adjustment, and insisted that its said grant should be adjudicated upon the said field notes alone. In 1903 the Secretary of the Interior, considering the practice to be cumbersome, expensive, slow, litigious, and generally unsatisfactory, discarded it, except as to certain pending controversies, and returned to the original practice, namely, that of administering the grant on the basis of the field notes of the Government surveys (32 L. D. 65). Notwithstanding this, said practice was not thereafter strictly adhered to. With respect to the lands here involved the field notes were not in all cases followed. A reexamination of some of said lands was made in 1910 under the direction of the Secretary of the Interior, and patents to some thereof were issued based on the report of said Secretary's field agents. Settlers on certain of said lands not so patented were permitted to question the accuracy not only of the field notes of the original surveys but also of said reexamination to the effect that the lands were swamp in character. This resulted in numerous contests before the Land Department and the Secretary of the Interior. The State asserted its claim in these contests by offering proof in support of the disclosures made by said field notes and reexamination. The ultimate decisions in these contests with respect to
116 the character of the lands were held by said Secretary to be determinative of the State's right to such lands.

It is further alleged that the procedure followed in listing and patenting has always been substantially as follows: The Commissioner of the General Land Office would make up a list of land established as swampy in character and submit it to the Secretary of the Interior, with a recommendation that it be approved; when approved the Secretary would return it to the commissioner, who would make duplicate copies thereof, and transmit one to auditor of the State. The list would then be examined by said auditor and differences, if any, between the State and the Department of the Interior adjusted, after which a request would be made for patent and patent would thereupon issue. Under this procedure, followed by reason of Minnesota's election to abide by the field notes, defendant has never had anything to do with the matter of selecting and listing swamp lands; this has always been considered by both Federal and State officials as within the exclusive jurisdiction of the said Secretary of the Interior. That the State has always, and with particular reference to the lands involved in this suit, acted with due diligence in demanding the issuance of patents following the submission to her of swamp-land lists as aforesaid.

117 1. Defendant admits that the swamp land act of 1860 provides:

"that the proceeds of said lands, whether from sale or direct appropriation in kind, shall be applied, exclusively, as far as necessary, to the purpose of reclaiming said lands by means of levees and drains aforesaid."

2. Defendant admits the adoption of an amendment to her constitution on November 8, 1881, reading in part as follows:

"The principal of all funds derived from sales of swamped lands as aforesaid shall forever be preserved inviolate and undiminished. One-half of the proceeds of said principal shall be appropriated to the common school fund of the State. The remaining one-half shall be appropriated to the educational and charitable institutions of the State, in the relative ratio of costs to support said institutions."

Defendant admits that she has sold to private individuals a considerable portion of the lands patented to her as heretofore alleged, and has disposed of all of the proceeds derived therefrom in such a way as to fully meet the requirements of the provisions of her constitution just quoted, the same constituting a part of section 2 of article 8 of said constitution set forth in Exhibit A. It is denied that such disposal of said proceeds constitutes such a breach of the provisions of said grant as works a forfeiture thereof.

118 Defendant alleges further that from the passage of said act of 1869 down to the commencement of this suit, the State has been interested in the settlement and improvement of lands patented to her as swamp, and in opening roads and other public works through the same; that approximately $2,000,000.00 has been appropriated out of the general revenue funds of the State and approximately $49,129,278.00 has been spent by local subdivisions in reclaiming the swamp lands of the State through the construction of drainage projects, and that said projects have made many thousands of acres of the swamp lands patented to the State as aforesaid fit for agricultural purposes.

V

Defendant admits the allegations of fact set forth in Subdivision V of said bill.

VI

Defendant states that she is prepared to disclose all the information requested of her in paragraph 14 of Subdivision I and paragraph 3 of Subdivision IV of said bill, and will do so pursuant to stipulation or before a master, if one is appointed to take the testimony herein.

VII

Further answering said bill of complaint, defendant alleges:

1. That said act of 1860 operated to transfer to Minnesota
119 the swamp lands covered by the grant made thereby as of its

date, March 12, 1860, the only things remaining to be done being that of identifying such lands and issuing to the States evidences of its right and title thereto. That as said lands were identified and patents issued, the title which vested in the State related back to said date, taking precedence over any and all intervening claims to said lands. That such is the construction which the Secretary of the Interior has always given to said act in administering the same, as evidenced by a long line of land decisions rendered by him.

2. That the lands here involved were public lands on March 12, 1860, and following identification as swamp and patenting passed to defendant in fee as of March 12, 1860, unaffected by the treaties and act of 1889 in said bill and hereinbefore referred to.

VIII

By way of answer to said bill, defendant further alleges:

1. That prior to 1906 the Secretary of the Interior on several occasions passed on the State's right to the lands involved in this suit, such right having been on said occcasions questioned on the grounds made the basis of the bill of complaint herein in proceedings instituted and conducted before the Department of the Interior, and said Secretary, in each instance, after careful consideration of such grounds, upheld the right of the State to said lands. In 1906
120 the forestry branch of the Department of Agriculture objected to the issuance of patents to said lands on the grounds made the basis of said bill, with the result that the whole matter was referred to the Attorney General of the United States. The Attorney General, after due consideration, in an opinion rendered in 1906, upheld to the fullest extent the right of the State to said lands; and thereafter patents to a large area of said lands, the issuance of which had been suspended as a result of the reference to the Attorney General, were issued, the last having been issued in 1911.

2. That the State, relying upon said decisions of the Secretary of the Interior and the opinion of the Attorney General of the United States as constituting a final adjudication of her right to said lands, particularly in view of the fact that no appeal to the courts was suggested by those charged with administering the said swamp-land grant, proceeded to and has sold the major portion of said lands under laws enacted by the legislature of the State for that purpose. That in the handling of said lands, involving appraisals, sales, collection of principal and interest and the keeping of records, the State has expended many thousands of dollars.

3. That said lands have been and are sold on long-time contracts, a copy of one thereof being hereto attached and made a part hereof, marked "Exhibit B." Most of the contracts heretofore entered into have a number of years yet to run. Under these contracts pur-
121 chasers are required to make annual payments, and when full

payment is made, patent from the State issues. The proceeds have been and will continue to be placed in the trust funds of the State pursuant to the aforesaid provisions of section 2 of article 8 of the State constitution. These provisions require that such funds forever remain inviolate and undiminished, authority being given thereby to invest the same in certain specified securities. In the exercise of this authority, the legislature has directed that said funds be loaned on the bonds of the United States, the State of Minnesota and of the counties, towns, cities, villages, and school districts thereof. This direction was first made many years ago, since which time the law has been in minor details modified. The law as it now stands is found in Session Laws of Minnesota for 1921, chapter 516, a copy of which is hereto attached and made a part hereof, marked "Exhibit C." Proceeding under this legislative direction and laws enacted providing the necessary machinery for loaning the funds, the bulk of said funds are kept invested in the bonds of said political subdivision, and principally in the bonds of school district for the erection and equipment of schoolhouses. Of said funds, aggregating about $8,000,000.00, approximately $6,000,000.00 are now invested in the bonds of the municipalities of the State. In the light of the foregoing, it is alleged that the State can not turn over to plaintiff the proceeds which have been and will be derived from the sale of said swamp lands; but must, in case plaintiff is
122 successful in this suit, call upon her property owners to furnish the requisite amount through the imposition upon them of levies of taxes for such purpose.

4. That in view of all these facts, it is alleged that every claim sought to be enforced in this suit is barred by the laches and neglect of plaintiff; and in addition thereto, in view of the reliance placed by defendant upon said decisions and opinion and her consequent disposal of the lands on the conditions, under the circumstances and with the results stated, it is alleged that said plaintiff is estopped to now question the soundness of said decisions and opinion and urge upon the court a reversal thereof.

5. It is further alleged that said claims are specifically barred by the limitations of six years' time after the issuance of patents, within which actions to cancel or annul the same may be brought by the United States, in accordance with the provisions of the act of March 3, 1891, section 8, 26 Stat. at Large, 1096, 1099, chapter 561.

IX

Further answering said bill of complaint, defendant alleges:

1. That said bill fails to state facts sufficient to constitute a cause of action against defendant.

2. That this suit, as appears on the face of the said bill, is instituted by the United States on behalf of the Chippewa Indians residing within the boundaries of the State of Minnesota. Said

123 Indians are the real and only parties plaintiff interested in said suit. Many of these Indians are citizens of the State of Minnesota. The suit, then, is one for and on behalf of persons against the State of which some are citizens and all are residents. Because of this it is alleged that the court is without jurisdiction; the judicial power of the United States does not extend to suits brought by or on behalf of individuals against States.

3. That said bill fails to join essential parties plaintiff and that by reason thereof this court is without jurisdiction herein.

Having thus made a full answer to all the matters and things contained in said bill of complaint, defendant prays that said bill be dismissed and for judgment for costs and disbursements in its behalf incurred.

CLIFFORD L. HILTON,
Attorney General,
MONTREVILLE J. BROWN,
Assistant Attorney General,
Attorneys for Defendant,
102 State Capitol, St. Paul, Minnesota.

C. R. PIERCE,
Of counsel,
Metropolitan Bank Building, Washington, D. C.

124 *Exhibit A to answer*

CONSTITUTION OF MINNESOTA, ARTICLE 8

§ 1. Uniform system of public schools.—The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature to establish a general and uniform system of public schools.

§ 2. School and swamp lands—School funds from sale of.—The proceeds of such lands as are or hereafter may be granted by the United States for the use of schools within each township in this State shall remain a perpetual school fund to the State; and not more than one-third of said lands may be sold in two years, one-third in five years, and one-third in ten years; but the lands of the greatest valuation shall be sold first: Provided, that no portion of said lands shall be sold otherwise than at public sale. The principal of all funds arising from sales or other disposition of lands or other property, granted or intrusted to this State in each township for educational purposes, shall forever be preserved inviolate and undiminished; and the income arising from the lease or sale of said school land shall be distributed to the different townships throughout the State, in proportion to the number of scholars in each
125 township, between the ages of five and twenty-one years; and shall be faithfully applied to the specific objects of the original grants or appropriations. Suitable laws shall be enacted by the legislature for the safe investment of the principal of all funds,

which have heretofore arisen or which may hereafter arise from the sale or other disposition of such lands, or the income from such lands accruing in any way before the sale or disposition thereof, in interest-bearing bonds of the United States, or of the State of Minnesota issued after the year 1860, or of such other State as the legislature may by law from time to time direct. All swamp lands now held by the State or that may hereafter accrue to the State shall be appraised and sold in the same manner and by the same officers, and the minimum price shall be the same less one-third as is provided by law for the appraisement and sale of the school lands under the provisions of title one of chapter thirty-eight of the General Statutes. The principal of all funds derived from sales of swamp lands as aforesaid shall forever be preserved inviolate and undiminished. One-half of the proceeds of said principal shall be appropriated to the common-school fund of the State; the remaining one-half shall be appropriated to the educational and charitable institutions of the State in the relative ratio of cost to support said institutions.

§ 3. Public schools in each township—No appropriation for sectarian schools.—The legislature shall make such provisions by taxation or otherwise as, with the income arising from the school
126 fund, will secure a thorough and efficient system of public schools in each township in the State. But in no case shall the moneys derived as aforesaid, or any portion thereof, or any public moneys or property, be appropriated or used for the support of schools wherein the distinctive doctrines, creed, or tenets of any particular Christian or other religious sect are promulgated or taught.

§ 4. University of Minnesota.—The location of the University of Minnesota as established by existing laws is hereby confirmed, and said institution is hereby declared to be the "University of the State of Minnesota." All the rights, immunities, franchises, and endowments heretofore granted or conferred are hereby perpetuated unto the said university; and all lands which may be granted hereafter by Congress, or other donations for said university purposes, shall vest in the institution referred to in this section.

§ 5. Loan of school funds.—The permanent school funds of the State may be loaned upon interest at the rate of five per cent per annum to the several counties or school districts of the State, to be used in the erection of county or school buildings. No such loan shall be made until approved by a board consisting of the Governor, the State Auditor, and the State Treasurer, who are hereby constituted an investment board for the purpose of the loans hereby authorized; nor shall any such loan be for an amount exceeding three per cent of the last preceding assessed valuation of the real
127 estate of the county or school district receiving the same. The State Auditor shall annually at the time of certifying the

State tax to the several county auditors, also certify to each auditor to whose county, or to any of the school districts of whose county any such loan shall have been made, the tax necessary to be levied to meet the accruing interest or principal of any such loan, and it shall be the duty of every such county auditor forthwith to levy and extend such tax upon all the taxable property of his county or of the several school districts, respectively, liable for such loans, as the case may be; and in all such cases the tax so assessed shall be fifty per cent in excess of the amount actually necessary to be raised on account of such accruing principal or interest. It shall be levied, collected, and paid into the county and State treasuries in the same manner as State taxes, and any excess collected over the amount of such principal or interest accruing in any given year shall be credited to the general fund of the respective counties or school district. No change of the boundaries of any school district after the making of any such loan shall operate to withdraw any property from the taxation herein provided for; nor shall any law be passed extending the time of payment of any such principal or interest, or reducing the rate of such interest, or in any manner waiving or impairing any rights of the State in connection with any such loan. Suitable laws not inconsistent with this amendment may be passed by the legislature for the purpose of carrying the same into effect.

128 § 6. The permanent school and university fund of this State may be invested in the bonds of any county, school district, city, town, or village of this State, and in first-mortgage loans secured upon improved and cultivated farm lands of this State, but no such investment or loan shall be made until approved by the board of commissioners designated by law to regulate the investment of the permanent school fund and the permanent university fund of this State; nor shall such loan or investment be made when the bonds to be issued or purchased would make the entire bonded indebtedness exceed 15 per cent of the assessed valuation of the taxable property of the county, school district, city, town, or village issuing such bonds; nor shall any farm loan or investment be made when such investment or loan would exceed 30 per cent of the actual cash value of the farm-land mortgage to secure such investment; nor shall such investments or loans be made at a lower rate of interest than 3 per cent per annum, nor for a shorter period than five years, nor for a longer period than thirty years, and no change of the town, school district, city, village, or of county lines shall relieve the real property in such town, school district, county, village, or city in this State at the time of issuing of such bonds from any liability for taxation to pay such bonds.

129 *Exhibit B to answer*

STATE OF MINNESOTA

AUDITOR'S CERTIFICATE

----------Lands

The land described in the within certificate was sold by the State subject to any and all ditch taxes thereon.

No. ----------

State auditor's office, St. Paul---------- At a sale of---------- ----------lands in the County of----------on---------- in accordance with the provisions of the laws of the State of Minnesota---------- purchased the ---------- ---------- quarter of Section No.----------in Township No.----------Range No.----------as appears from the plats of said land now of record in the State Auditor's Office, containing----------acres and---------- hundredths more or less at---------dollars per acre, amounting to the sum of----------dollars, of which amount the said purchaser paid at the time of the purchase the sum of----------

130 dollars and----------cents, on account of the purchase money, and ---------- ---------- reserving to the State of Minnesota all mineral and mineral rights in said land as provided by section 5304 of the General Statutes of Minnesota, 1913.

Now, if the said purchaser, his heirs, assigns, or other legal representatives shall pay to the county treasurer the further sum of ----------dollars, being the amount unpaid of the purchase money, in one or more installments, at any time within forty years from date of said sale, and also the interest at the annual rate of four per cent payable on June 1st in each and every year on said unpaid amount; and shall also pay to the proper officer all taxes which may be levied upon said land as the same shall become due; then, and in that event only, will the said purchaser, his heirs, assigns, or other legal representatives, be entitled to a PATENT for the land herein described. But in case of the nonpayment into the county treasury of the purchase money aforesaid, as it shall become due, or of the interest thereon, as it becomes due in each and every year, and in case of the nonpayment of any taxes aforesaid by the said purchaser or any person claiming under him, then this certificate, from the time of such failure, SHALL BE UTTERLY VOID AND OF NO EFFECT, and the auditor may take possession of said land and resell the same, as provided in section 5228 of the General Statutes of Minnesota, 1913.

131 In Testimony Whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the City of St. Paul, on the day and year first above written.

State Auditor.

By ---

Deputy.

(All payments on above land must be made to County Treasurer.)

132 *Exhibit C—to answer*

CHAPTER 516—S. F. NO. 737

An act providing for the investment of the permanent trust funds of the State by a board of commissioners to be known as the State board of investment, defining its powers and duties, and repealing section 5245, General Statutes 1913.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Investment of permanent trust funds.—The permanent school fund, permanent university fund, swamp land fund, internal improvement land fund, and all other permanent trust funds of the State of Minnesota shall be invested in the bonds of the United States or of this State or the bonds of any school district, county, city, town or village of this State, bearing not less than four per cent interest, but no investment shall be made in bonds issued to aid in the construction of any railroad. Such funds shall be invested by a board of commissioners consisting of the Governor, treasurer, auditor, attorney general and president of the board of regents of the State university, which shall be known as the State Board of Investment, and which shall hold regular meetings on the first and third Wednesdays of each month. The Governor shall be ex-officio president of the said board, which shall have a permanent
133 secretary, who shall keep record of its proceedings. Both the secretary of the board and the auditor shall keep a record showing the number and amount of each bond, when issued, the rate of interest, when and where payable, by whom executed, when purchased, when withdrawn and for what purpose. Such bonds shall be endorsed so as to show to which trust fund they belong and shall be transferable only upon the order of said board of investment, but no bonds shall be purchased, sold, exchanged or transferred from one trust fund to another except upon a majority vote of all the members of said board of investment, and no purchase of such bonds in excess of $100,000 shall hereafter be made from any municipality in this State except in cases of emergency heretofore or hereafter arising from damage or destruction by flood, fire, or cyclone, unless such purchases have been heretofore approved by said investment board. The permanent school fund shall be invested in the bonds of school districts so far as possible, and in the purchase

thereof preference of payment shall be given to such bond issues of $9,000.00 and less in amount. The board of investment shall have power to fix and to change the rate of interest on loans to municipalities within the State, provided such rate is never less than four per cent, and whenever such rate is changed after any municipality has voted its bonds to the State, such municipality is hereby authorized to pay the new rate so fixed and to issue its bonds bearing such rate upon approval and acceptance thereof by resolution of its governing body.

134 Section 2. Laws repealed.—Section 5245, General Statutes 1913, is hereby repealed, but nothing herein shall affect any proceedings taken under said section prior to the approval of this act.

Section 3. This act shall take effect and be in force from and after its passage.

Approved April 23, 1921.

135 May 25, 1925, motion that printing of record be directed and cause set for argument submitted

136 [Title omitted.]

Joint motion for printing record and setting cause for hearing

Filed May 25, 1925

137 Come now the United States and the State of Minnesota and, showing the court that they have lodged with the clerk a stipulation and agreed statement of evidence, move that the clerk be directed to make up and print a record comprising the pleadings and the said stipulation and agreed statement, and that the cause be set down for hearing thereon at the earliest practicable date in the October term, 1925.

JAMES M. BECK,
Solicitor General.
CLIFFORD J. HILTON,
Attorney General of Minnesota.

138 Order to print record and setting cause for argument, filed June 1, 1925

Motion to print record granted and cause assigned for October 5, 1925

139 [Title omitted.]

Stipulation of evidence

Filed May 23, 1925

It is agreed between the parties that the evidence on behalf of the United States shall comprise the copies of documents, reports,

letters, maps, and plats hereto attached; that the same are true copies and have been taken from the sources indicated in the heading prefixed thereto, respectively; that the State of Minnesota objects to each and every one thereof as wholly irrelevant and immaterial; and that each thereof shall have such force and effect only as if offered before a commissioner appointed by the court to take the evidence and by him received subject to objection by the State on the grounds of irrelevancy and immateriality.

140 DOCUMENT 1

Act of December 19, 1854, 10 Stat. 598

CHAP. VII.—An act to provide for the extinguishment of the title of the Chippewa Indians to the lands owned and claimed by them in the Territory of Minnesota, and State of Wisconsin, and for their domestication and civilization

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he is hereby, authorized to cause negotiations to be entered into with the Chippewa Indians for the extinguishment of their title to all the lands owned and claimed by them in the Territory of Minnesota and State of Wisconsin, which treaties shall contain the following provisions, and such others as may be requisite and proper to carry the same into effect:

First. Granting to each head of a family, in fee simple, a reservation of eighty acres of land, to be selected in the territory ceded, so soon as surveys shall be completed, by those entitled, which said reservations shall be patented by the President of the United States, and the patent therefor shall expressly declare that the said lands shall not be alienated or leased by the reservees, or their heirs and legal representatives, until otherwise ordered by Congress, and no change of location shall be made without the assent of the President of the United States.

Second. The annuities to which said Indians are entitled, under existing treaties, with the consent of said Indians, together with such as may be allowed them for the cession, or cessions, under the provisions of this act, shall be equally distributed and paid them at their villages, or settlements, within the limits of the ceded territory; but the President shall be invested with power to cause said annuities to be commuted, from time to time, for such articles of goods, provisions, stock, cattle, implements of agriculture, the clearing and fencing of land, and the erection of buildings and other improvements, as, in his discretion, will conduce most to promote their comfort, civilization, and permanent welfare.

141 Third. All the benefits and privileges granted to said Indians shall be extended to and enjoyed by the mixed bloods belonging to or connected with the tribe, and who shall permanently reside on the ceded lands.

Fourth. The laws of the United States and the Territory of Minnesota shall be extended over the Chippewa territory in Minnesota whenever the same may be ceded, and the same shall cease to be "Indian country," except that the lands reserved to said Indians, or other property owned by them, shall be exempt from taxation and execution; and that the act passed thirtieth June, eighteen hundred and thirty-four, "to regulate trade and intercourse with the Indian tribes," etc., be inoperative over the said ceded territory, except the twentieth section, which prohibits the introduction and sale of spirituous liquors to Indians.

Fifth. The President shall have power to prescribe and enforce such rules and regulations, not inconsistent with the foregoing provisions, as he may deem necessary for the effectual execution of the purposes of this act, which said rules and regulations shall be annually reported to Congress.

SEC. 2. *And be it further enacted*, That, for the purpose of defraying the expenses of said negotiations, the sum of ten thousand dollars be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated.

142 DOCUMENT 2

[Letter January 4, 1855, from Commissioner Indian Affairs to Willis A. Gorman, governor of Minnesota Territory (also superintendent Indian affairs, Minnesota). From files of Indian Bureau.]

DEPARTMENT OF THE INTERIOR,
OFFICE INDIAN AFFAIRS,
January 4th, 1855.

Gorman, His Excy. Willis A.
Governor, &c.
St. Paul, Minnesota.

SIR: On the receipt of this communication you will despatch a messenger, with all haste, to Agent David B. Herriman, and direct him, if he will be able, within the time elapsing, between the reception of the instructions and the 10th proximo, to reach the city of Washington, that he will immediately set out for this city, bringing with him "Hole in the Day" and six other principal chiefs of the Chippewa Indians of the Mississippi. If possible I desire him to bring also "Flat Mouth" and two other Chiefs of the Pillagers, and the principal and two other chiefs of the bands near Lake Winnipeg, but if the arrangements to bring them, or any of them, would delay him so that he could not reach here by the time specified, he will come with the chiefs of the Mississippi bands only. The deputation or deputations will, of course, be accompanied by the United States interpreter.

It will be desirable to have the general consent of the Indians in council, to the proposed visit, and to the individual chiefs selected as delegates. He will inform the Indians that the President has

been authorized and desires to enter into additional articles of convention with them, respecting their claim to lands in Minnesota, reserving, of course, homes for them, making many stipulations that would be for their present comfort and advantage, and their permanent welfare in the future, and it is for this purpose that he wishes the chiefs to come. Their expenses, of course, will be paid by the United States.

For the amount which he may adjudge requisite to defray the necessary expenses of their journey to this city, and a comfortable, though economical outfit of clothing, the agent, with your approval, will draw on this office, provision having been made for these
143 expenditures by an act of Congress approved December 19th, 1854. You will specially charge Agent Herriman, that, if he will not be able to reach Washington by the day limited, viz, February 10th, he will not set out from the agency, or in case he may have arrived at St. Paul on his way, and it should then appear to be impossible to reach here in time he will in that case not continue his journey but return.

Very respectfully, your obt. servant,

GEO. W. MANYPENNY,
Commissioner.

144 DOCUMENT 3

[Letter February 1, 1855, from Gorman, governor, to Commissioner Indian Affairs. From copy in letter book Minnesota superintendency covering dates May 20, 1853, to August 15, 1855, and now in Indian Bureau.]

EXECUTIVE OFFICE—M. T.,
Saint Paul, February 1, 1855.

SIR: In obedience to your instructions to me, I directed Agent Herriman to take the chiefs designated in your letter (a copy of which was sent him) to Washington. He sent word to the "Mill Lac" bands to come to Crow Wing, for the purpose going to Washington. They did not reach the agency until the day after they left. They then followed on to this place and got here the day before the agent left. They came to me and asked me if they were to go. I told them they were to go as a matter of course. They said their agent did not want to take them, that they had some complaint against him for improper conduct at the payment and that he was angry at them. Of this I know nothing. They came to my house in the night, about eleven o'clock, with Mr. C. H. Beaulieu, and Charles H. Oakes, and stated that the Indian Mr. Herriman had with him taking to Washington was not a chief, that if he (the said Indian) attempted to go without the three Mill Lac chiefs, they would take him and tie him and take him back. That if Hole in

the Day went to Washington and sold their land without them that they would kill him the moment he returned home. That they would go and with or without my consent, for they knew Hole in the Day was bribed by certain traders, that they did not get to Lake Superior for some cause to the treaty, and they would not now lose their rights by foul play, and a good deal more talk, all of which was thus interpreted to me in presence of C. H. Beaulieu, C. H. Oakes, Geo. W. Farrington, Richard L. Gorman, et al.

I then found by a more searching into the influences that were at work, that there were rival interests, with rival traders, and with rival Indians and bands. I therefore ordered the agent positively to take the three Mill Lac chiefs. And said chiefs distinctly averred that Mr. Herriman had not but three chiefs now with him, that all the rest were mere soldiers or braves. The agent did not take the Mill Lac chiefs, although I distinctly said to him in writing that the Government did not want to put up a serious difficulty at the start, that it would be far better to avoid such a serious evil. As the Indians of the Mill Lac bands averred they would never give up their lands unless they could be heard, and that the Indians whom the agent were taking on did not represent the said bands. And I knew it to be your policy to let the Indians have some choice of the delegates to be sent on the part of the Winnebagoes, and it would no doubt be your express wish that the Chippewa chiefs should have a similar voice in their delegation, or at least they should be consulted on the subject. I now distinctly say that this division at the start arises out of interests aside from that of the Indians, and which you will no doubt be able to see before you get through with the treaty.

These Mill Lac Indians being sent for to go to Washington on the invitation of the agent they will (with the influences that surround all such treaties with the Indians) create serious trouble, and show many embarrassments in the way if they were kept back. They are Mississippi annuity chiefs identified in every interest you wish to consult. I have therefore directed that they may go.

145 All these matters you will see before you get through with their affairs. These chiefs were fully and emphatically within the purview of your order.

You would feel that I had not discharged my duty if I had failed to put you in possession of these facts.

I have therefore put the Mill Lac chiefs in charge of C. H. Beaulieu to take to Washington. I have not drawn upon you for the funds to bear their expenses because your instructions were that the agent should draw upon you for their outfit, &c., with my approval and he the agent has ample funds for all in his hands, received as a draft, which will be presented by C. H. Oakes, Esq. In haste,

I am with great respect your obt. servant,

W. A. GORMAN.

Hon. G. W. MANYPENNY,
Commissioner, Washington.

146 DOCUMENT 4

[Letter February 1, 1855, from Gorman, governor, to Commissioner Indian Affairs. Original on file in Indian Bureau.]

EXECUTIVE OFFICE,
Saint Paul, Febry. 1st/55.

SIR: In obedience with your instructions to me, I directed Agent Herriman to take the Chippewa chiefs designated in your letter (copy of which was furnished him) to Washington. He notified the several chiefs, but those of Mill Lac did not arrive at the agency until after he left. They then followed him on to this place, and got here the day before he started. While here they came to me and asked me if they were to go. I told them they were, as a matter of course. To my surprise they then stated that their agent did not want them to go, that he was angry with them because they had some complaints against him for improper conduct at the last payment. They further stated that the agent was taking an Indian with him to represent the Mill Lac bands—who had nothing to do with them, that he was a St. Croix Indian, that they could not believe that their Great Father would do them such an injustice as to let a strange Indian sell their land, that they had been prevented from being at LaPointe at the treaty, and that they had determined not to lose their rights this time by foul play, that if I did not allow them to go to see their Great Father, they would go anyhow, &c., &c. After due consideration and reflection, I ordered Agent Herriman positively to take these chiefs with him. In the letter I addressed him on the subject I distinctly told him that it was not good policy for the Government to get up a serious difficulty at the start and to avert all such feelings. I wanted these Indians to go. To my surprise I find that the agent has entirely disobeyed my positive instructions, and on a more close examination I perceive that there are other interests than the Indians at work in this matter, and that Agent Herriman, instead of looking to the Indians' good and the Government's interest, allows himself to be swayed from his duty by siding with these outside interests. I hesitated for some time whether I had better interfere or not, for it is a difficult matter to preserve the authority of the Government in the eyes of the Indians—when its officers do not act in concert. But on considering that these Indians have as much right to go as any, believing as I do that it would create serious troubles to prevent them, and feeling also satisfied that Agent Herriman's course in keeping them away are not such as they ought to be. I have put them in charge of Mr. C. H. Beaulieu for the purpose of taking them to Washington. As per my letter of instructions, copy of which I enclose.

It is to me an exceedingly unpleasant duty to make complaints, but Agent Herriman's conduct shows such an open violation of his duty that I feel it incumbent on me to put you in possession of the

facts, and interfere where the interests of the Government are at stake.

I am most respectfully your obt. servt.,

W. A. GORMAN.

147 DOCUMENT 5

[Longhand notes of ten separate interviews at Washington between the Commissioner of Indian Affairs and the Chippewa chiefs, which resulted in the treaty of 1855. From records of Indian Bureau.]

First Interview

Interview between the Comr. of Indian Affairs and a delegation of Chippewas

19TH FEB.

On Monday evening last, a delegation of Chippewa Indians from Minnesota had an informal talk or interview with Col. Manypenny, Commissioner of Indian Affairs. Their attendance here, it is said, was requested for the purpose of making a treaty for the purchase of a tract of land lying in Minnesota.

The delegation were accompanied by their agent, Maj. David B. Harrison, Truman A. Warren, U. S. interpreter, and Paul H. Boileau, who (owing to the indisposition of Mr. Warren) acted upon this occasion as interpreter. They consisted of the principal chief, the celebrated "Hole-in-the-Day," and the following named sub-chiefs, viz: "Croping-Sky," "Crowpather," "Bad-boy," (who, notwithstanding his name, is said by the agent to be an excellent Indian), "Coming-home-hollowing," and "One-who-knows."

The commissioner asked Hole-in-the-Day how he liked the method of traveling over railroads, etc., as compared with the Indian mode?

Hole-in-the-day said he liked it very much, and admired the wisdom of the white men which enabled them to accomplish such works. Although his color was different from that of the commissioner, he knew the same Great Spirit made both, felt as an American at heart, and took great pleasure and satisfaction in noticing the wonderful increase and progress of the whites in improvements. These things, he intimated, were natural to the whites, as the habits, customs, and pursuits of the red men were to them, and each should adhere to their own way of life.

The commissioner was glad to find that his young friend noticed such things, and felt such pride as an American. Although in this meeting they had no special object to accomplish, he felt that himself and his red brethren could spend an hour or two very pleas-

antly together. It is true the white people have grown
148 with great rapidity—have spread from the Atlantic to the Pacific; but what has been the destiny of the red men? They have yearly diminished in numbers. Why have they decreased and fallen away while the whites have increased and multiplied? The

Great Spirit, as you justly remark, made all, and intended that both should increase and multiply and replenish the land. My young friend, said the commissioner, has thrown out an idea that each should adhere to their manners, customs, and habits, but this suggestion is the offspring of prejudice. So long as the red man relies upon the precarious subsistence afforded by the chase, so long will he remain ignorant of the advantages of industry and civilization—so long will the Indians decrease and diminish in numbers. Let them but once learn to depend upon the cultivation of the earth for their support, and education, improvement, and independence will follow; and then they can accomplish for themselves all that excited their wonder and admiration on their way to Washington.

Hole-in-the-Day. That is true, very true.

The commissioner said he would like to hear his red brethren talk a little.

Hole-in-the-Day did not know what to say or what to talk about. His ideas were fully expressed in the few words which he uttered in the beginning of the conversation. His idea is to notice what the white people do, and to get his people, as near as possible, to follow in their footsteps. It would be folly for him to attempt to express his views further than he has already done. He respected all present too much to trifle or joke with them.

The commissioner replied that his wish was to hear the delegates express freely their opinions and views, so that he might the better understand their wants and wishes, and as to whether there was among them any diversity of opinion. He desired to hear their opinions as to his suggestions.

149 Hole-in-the-Day, laughing, said as far as the labor and growth of the whites and their increase of territory are concerned, he assured the commissioner if the Indians did not emulate and equal the whites it was not for the want of envy. They did envy them in these things, and felt the greatest ambition to emulate and follow their example if they only knew how to accomplish it. This was the difficulty.

The commissioner said he could see no good reason why they could not, in time, equal the whites in these respects. He believed they had the natural capacity to do so.

Hole-in-the-Day said the whites had wisdom. They had learning, and, although they are wise, still what could they do with all their wisdom if they lacked money and means? They could accomplish nothing—they could make none of those improvements. An an illustration, my friend, said Hole-in-the-Day, what could the Chippewas do with the poor paltry sum of $4 each per year toward supporting their families, and building such railroads as we have passed over in coming to the seat of Government?

The commissioner said the white people were enabled by their industry and labor, after supporting their families, to keep a strong box in which, after building their railroads, they put a great deal of money. But if every white man in the country had a room full

of money and no one labored their magnificent roads and other improvements could not be made. Money, with them, was a measure of value, and its accumulation was the reward as well as the result of thrift and industry. You must have observed (said the commissioner) that white men who go to Minnesota are generally poor. They, however, settle upon the public domain, and, before surveyed and brought into market, make enough off the land not only to support their families, but to pay for it when offered for sale. I agree with my young friend that means are necessary to the accomplishment of physical improvements, but had the Chip-
150 pewas been farmers, they could have had plenty of wheat and other breadstuffs to sell the white settlers, who, for the want of these things were compelled to send for provisions all the way to St. Louis. Had the Chippewas been cultivators of the soil, instead of hunters, they would, under this state of things, have had their pockets full of money. Conceding that means are necessary to accomplish great undertakings, it is evident that those who follow the precarious pursuits of the chase will never have the means of success.

Hole-in-the-Day replied that what the commissioner said was true, true to the letter. He respected his advice and admired his maxims; but, in the rude state of his own people, what were they but savages? What could they have done under such circumstances? How could men with their habits and ideas acquire wealth? Their forefathers did not instruct and educate them like the ancestors of the whites, for they, too, were savages. It takes time to wear away attachment to old customs, habits, and superstitions. They can not be got rid of in a day. He was convinced that if each generation adhered to the customs and superstitions of their ancestors, red men will always live in poverty. Everything you have said, father, is true, and if they only could follow your advice it would be for the interest of the Chippewas.

The commissioner said his remarks were very true, but that there must be a beginning. The present generation of Chippewas, feeling, as they do, the advantages of industry and civilization, can lay the foundations of a change. When this is accomplished the Chippewas can attain to as high a position as the whites, and enjoy all those blessings and advantages which excite their envy and admiration outide of the hunts of the Indian country.

Hole-in-the-Day said that is all very true. He acknowledges that the Indians are rather too foolish. They adhere to customs and habits which are an injury instead of a benefit; "but, my
151 father, you must recollect that the whites were not always blessed and benefited by civilizaton. There was a period of dark ages in which they were like us, and from which they slowly emerged. We are now in that state. We know not, father, from one hour to another when life will end. Life is held in the palm of the Great Spirit. We do not know we will be alive to-morrow; but my great wish and desire is to improve the condition of the Chip-

pewa nation, and make them live like the whites. It will be eight years next spring, in the month of May, he continued, since I lost my father. At that time I was nothing but a mere foolish child. I knew nothing and did not care about knowing anything. At the time my father was dying, he said: 'My son, I charge you to take care of the Chippewa Nation, take the tribe by the hand, show them how to walk, and light them to fame, as it were, and make them resemble the whites.' I have, father, listened to his words, and well have I adhered to his advice. After his death I meditated day and night upon what he said, and have done the best I could to promote the welfare of my tribe. My first study was how to make the long-sought-for peace between the Chippewas and Sioux. I lost no opportunity to bring about that desirable result. The Chippewas have been assailed, their patience tried, and been persecuted, but, when attacked, have had revenge. My great study has been to secure peace, and, since I succeeded have been trying to bring about peaceable and friendly relations with other tribes. I am constantly thinking of the advice given me by my father, to 'please the Chippewas—to do all I can to promote their interest.' With the Indians, as well as with the whites, there is an ambition to excel, and those who go to war generally delight in punishing their enemies. When I go, I do the same, and have revenge. I do not hate the Sioux, I love them, as I do every one on the continent who
152 has a red skin. Of course, as I go to St. Paul very often I frequently meet the Sioux and also the Winnebagoes. I shake hands with them, and, reminding them that the Indians once owned the continent, ask them where are they now? I tell them this every time I see them, that when they fight they punish themselves and not the whites. I am a friend of peace."

The commissioner said he was glad to hear these remarks, and hoped a better day and destiny awaited the Chippewas.

(Here the conversation dropped, and Hole-in-the-Day, looking at a map before him, pointed out the land belonging to the Chippewas. Had he not been at the treaty of La Pointe last fall, he remarked with a smile to the commissioner, the land embraced in the purchase then made would not have been now "marked out on the map." To this the commissioner assented, remarking that he was well aware of the fact.)

Hole-in-the-Day, having changed his position in the room, resumed the conversation by remarking that having now had a social talk they would like to come to the point as to the nature of the business for which they were invited to come to this city. He regretted that all the chiefs were not here, but hoped they would soon be. Seven was the number you wanted; there are only six here, but believed there was one on the way. Those here would esteem it an especial favor to be informed of the object in sending for them, and to get some insight into the business to be transacted. They had heard of a building called a "penitentiary" here, in which they understood persons were sometimes imprisoned, and had thought

that perhaps it was contemplated to give them a taste of confinement, so as to enable them to understand how persons so situated would feel.

The commissioner said he had no such design as that intimated by his young friend. The object was to do good to the Chippewas. His object in sending for them was to buy from them a portion of
153 their lands lying in the Mississippi country, which, when the Chippewas became cultivators of the soil like white men, they will not want, or be necessary to their support. They will then, like the whites, make a living on less land. He desired to wait until the Sioux came before they would talk about business. He did not wish to talk in two tongues.

HOLE-IN-THE-DAY. The Great Spirit, although he made the Indian and the white man of a different color, gave each a dialect by which they could understand each other. The Master of Life gave us a faculty of using our tongues, and we should use words enough to make ourselves understood. Take the white man, with all his wisdom, and he is not infallible to faults. Your words strike us in this way. They are very short. "I want to buy your land." These words are very expressive, very curt.

The commissioner said his language was misunderstood. He did not mean to accuse his friend of speaking with forked tongues. What he meant is, that if arrangement could be made for the purchase of the lands a fair consideration shall be paid therefor. He did not wish to act toward his red children in such a way as to overreach them; to say to them what he did not mean, or to make promises which he did not intend to fulfill.

Hole-in-the-Day replied that he did not misunderstand the language of his father, the commissioner; and in his remarks he merely meant to say that whatever was done should be done openly and frankly, so that no misunderstanding or misapprehension should afterwards arise. The Great Spirit blessed us with tongues to express our feelings, and we should not abuse the gift by using it to deceive. The Indians have heretofore been too often deceived, because there were too many words used, and too few of them carried out.

The commissioner said we must try and avoid such things in the future, and so act as to leave no room for misunderstanding.
154 Hole-in-the-Day said he had occasion every day to envy the way the whites do business, in black and white.

The commissioner said one great impediment to a good understanding between the Government and the Indians arose from the fact that the latter can not read or understand the contracts which they make. Hole-in-the-Day replied that where persons have faith in the paper it as as good and valid as if they could read it.

The commissioner said that was very true. If no deception be used such faith was just as safe and reliable. The Indians are doubtless often deceived by papers drawn up for their signature, which could not be the case could they read and judge for themselves.

HOLE-IN-THE-DAY. Our people must have faith in somebody or they can not trust anybody. If not, they could do nothing. Flattery [continued Hole-in-the-Day] is not my habit; but I must thank the commissioner for his unusual frankness. It is the first time a person about to do business with us has, in advance, put us on our guard, and I shall try and profit by the advice.

The commissioner remarked if their fathers had educated them they could judge for themselves—they could not be deceived; and hence he hoped they would see the necessity of educating their children so that in all their dealings with the world they can protect themselves.

HOLE-IN-THE-DAY. The whites have too much wisdom for the Indians.

COMMISSIONER. The reason is they are educated. The Indians are naturally as susceptible of education as the whites, and should exert themselves to acquire the wisdom which they envy in us.

HOLE-IN-THE-DAY. We appreciate this talk very much. I view my position in the same light you do yours. In your present
155 situation you are the Great Father's man. I am the Indian's man. I stand in the same relation to my tribe that you do to yours. You are not willing to do anything which will displease those who have selected you; neither am I willing to run counter to the wishes of my people. In this respect we are both occupied alike in acting for others as well as ourselves.

The commissioner said that was right. It is the true doctrine for the guidance of men in authority who should do their duty to those they represent.

After some further conversation about a house, shoes, etc., the Indians took their leave, apparently well pleased with their talk.

156 Second Interview

Interview between the Commissioner of Indian Affairs and the Chippewa delegates

On Thursday evening last (15th instant) Colonel Manyheny had a second interview with the Chippewa del gation upon the subject of the purchase of a tract of land west of the Mississippi, lying between where the Crow Wing and Watah Rivers empty into the same, containing about 800,000 acres; for which, it is understood, the commissioner proposes to give a tract of about 250,000 acres in the interior of Minnesota, some distance south of their present reserve, with such pecuniary consideration as might be agreed upon between the parties. The delegates present on this occasion consisted of those headed by Hole-in-the-Day, with whom he had an interview last Monday evening, and the following chiefs and headmen of the Pillager and Winnepec Band of Chippewas, who have since arrived, accompanied by Mr. J. W. Lyon, a trader, and Peter

Roy, interpreter, viz, Eske bu ge kose, or Flatmouth; Bejcke, or Buffalo; Nabanaosh, or Young man's son; Magegabo, Magizzy, or Eagle and Cobmibby.

COMMISSIONER. I am very glad to see you all this evening. Having understood that the Chippewas were desirous to visit Washington, and being anxious myself to see them, I directed the agent to cause a delegation of your tribe to proceed to this city that I might talk with you and discuss matters pertaining to your future prospects. Your present condition, I am satisfied, is not a desirable one or calculated to benefit you. A roving life is not productive of good. You should change and conform to the times and the spirit of the age in which we live.

A part of the Chippewas, with your hereditary chief, were here a few evenings since, and we had an informal conversation, but said nothing on business, but as the Chippewas are fully represented to-night we will proceed to talk over business matters. In looking at your affairs I am satisfied that the Chippewas should con-
157 fine themselves to a smaller extent of territory, and use every means in their power to induce their young men to abandon their present mode of living and turn their attention to the cultivation of the soil.

I suppose, however, these matters have occurred to you, and you have doubtless talked them over at your distant homes, and are therefore aware of the necessity of something being done to provide for your welfare. I should like much to have your views—perhaps you have had some conversation in regard to your affairs since your arrival in Washington; if so, I would like to hear your views fully.

FLATMOUTH (head chief of the Pillager Band), shaking hands with the commissioner, said: Father, not that I am afraid to speak, but I think I can explain my views in one word. It is enough, father, to show the confidence reposed in me that I am here. I am deaf, father, and can hear with difficulty; but the few words you have uttered have given me confidence. It appears to me that I understand what you want, and know your views from the few words I have heard you speak. You want land. You look at me, father; you see how old I am. On account of my advanced age, I find it difficult to make myself understood. It is one of my characteristics not to understand all that is said; and as I am old I want time for reflection. I want time for reflection—one day or one night, and then I can answer you. Appoint a day or an hour, and after this night I will respond to your question.

COMMISSIONER. I am struck with the old gentleman's remarks. He says he understands exactly what I want; why then should he ask time to reflect? The giddy and inexperienced young man might well ask time, but the old should be always prepared, from long experi-
ence, to express their views and make known their wants. He
158 did not, however, wish to hurry his old friend, or urge him to act precipitately. He appears to understand the object of the interview. His people had more land than they wanted or could

use, and stood in need of money; and I have more money than I need, but want more land. Hence it is that the necessities and wants of both would be relieved by coming to a proper understanding in respect to the object of this interview.

(Here Paul, the interpreter, suggested that, as his memory was defective, he would be glad if the speeches were broken into shorter fragments.)

The commissioner remarked to Buffalo, that if he was a young man he would insist upon his dispensing with his headdress of feathers, but that, as he was old, he would not disturb a custom which habit had endeared to him.

Buffalo replied that the feathered plume among the Chippewas was a badge of honor. Those who were successful in fighting with or conquering their enemies were entitled to wear plumes as marks of distinction, and as the reward of meretorious actions.

The commissioner asked him how old he was.

Buffalo said that was a question which he could not answer exactly. If he guessed right, however, he supposed he was about fifty. (He looked, and was doubtless, much older.)

COMMISSIONER. I would think, my friend, you were older than that. I would like to philosophise with you about that headdress, and desired to know if he had a farm, a house, stock, and other comforts about him.

BUFFALO. I have none of those things which you have mentioned. I live like other members of the tribe.

COMMISSIONER. How long have you been in the habit of painting—thirty years or more?

159 BUFFALO. I can not tell the number of years. It may have been more or it may have been less. I have distinguished myself in war as well as in peace among my people and the whites, and am entitled to the distinction which the practice implies.

COMMISSIONER. While you, my friend, have been spending your time and money in painting your face, how many of your white brothers have started without a dollar in the world and acquired all those things mentioned so necessary to your comfort and independent support. The paint, with the exception of what is now on my friend's face, has disappeared, but the white persons to whom I alluded by way of contrast are surrounded by all the comforts of life, the legitimate fruits of their well-directed industry. This illustrates the difference between civilized and savage life, and the importance of our red brothers changing their habits and pursuits for those of the white.

(The Indians have held a running conversation and consultation as to what was best to be done, a circumstance which their interpreter explained.)

Hole-in-the-Day said the Pillagers being the parties addressed this evening he did not feel it incumbent upon his band to take any part in the discussion. It was for the Pillagers to respond to the remarks of the commissioner.

The commissioner said that his friend Hole-in-the-Day was mistaken. He did not think the Chippewas had and distinct interests, and he therefore addressed himself not to the Pillagers alone but to the Chippewa Nation.

Buffalo said his people lived much farther back than any other band of the Chippewas, and consequently did not enjoy opportunities to understand the matters discussed as well as others. Only in a single instance had he anything to do with annuity payments. Hence he desired time to reflect before he could give a definite answer.

160 The commissioner said he was fully aware of the remote position of the Pillagers, but did not think there existed rival interests between the different bands of the Chippewa nation. In respect to the business which brought them together, he said he was anxious to act with despatch, so that the great council of the nation, now in session here, might give their acts its sanction before its adjournment, which will soon take place. He addressed them altogether, because he could recognize among them no separate or rival interests. He would be glad to hear what his friend Hole-in-the-Day had to say upon the subject.

Buffalo inquired if he properly understood the commissioner as wishing to make one nation of the Chippewa people. If this is not so, he would like to be corrected.

The commissioner replied that he had no desire to disturb or interfere with their internal affairs. He wished to treat with them, however, as Chippewas.

(Captain Eastman, who was present, here suggested that if they were converted into one nation several persons would lose their offices, and hence their repugnance to a change in the present order of things.)

Very true, said the commissioner; the Indians, in this respect, are like their white brothers—fond of power and distinction and opposed to any arrangement which deprives them of either or diminishes their chances of promotion. He should not, therefore, attempt to disturb them in their offices.

FLATMOUTH. There is truth, father, in everything you have said. We feel that it is all true. We should have no conflicting interests, but we are in this respect like the whites. We have separate and distinct interests. We know our own possessions. We know what property we own. We want to do the best we can for ourselves. We want time to reflect. We do not want more than a day, perhaps; but if it takes four to reflect upon it, we want to take it. We know the great council has not long to sit, and we shall there-

161 fore act with all possible despatch.

The commissioner said he desired prompt action, but he did not wish anything unreasonable. He was aware of their separate interests and did not wish to disturb them. He presumed they understood their boundaries and would be able to define them. For his

part he did not and would have to be informed upon that point before he could make a proposition to purchase.

HOLE-IN-THE-DAY. Father, there is no use in looking at the map or attempting to find out the boundaries between different bands. Make your proposition, say what you want, and what you will give, and we will consider of it. There is no use of making child's play of the matter. It can be expressed in a few short words.

FLATMOUTH. Our great father knows our lines better than we do. The Indians know nothing on paper. We know what our father desires.

COMMISSIONER. My friend Flatmouth seems, after all, to be prepared to act, and I therefore presume a treaty can be made to-night.

FLATMOUTH. It is not a fault of mine not to be prepared to act. I want to understand and reflect upon the subject and to study my own interest.

COMMISSIONER (jocularly). I hope my friends do not want to study how to cheat or take advantage of their father.

FLATMOUTH. Father, you have the advantage of us, but I hope our father will not use his power to injure his red children.

The commissioner said the Pillagers and the Mississippi Bands must determine the lines of their boundaries. He had no desire to confound their respective interests. He wished them to define among themselves their boundaries and say what quantity of land they wish reserved and where. If they will make known
102 through some friend to-morrow their boundary lines and the quantity of land which they wish to have reserved, etc., he would be prepared to make them a proposition at once. Without this information, however, he could not make the necessary calculations as to the extent of their respective interests, which is indispensable as the basis of an offer.

Flatmouth made a remark which the reporter did not understand.

HOLE-IN-THE-DAY. Father, I respect every man because he is a man; but I respect still more the American people, and why should I not? My views are such, father, I can not express them, and why? Because they are grand. My views are not limited, not on account of their wisdom but of their highness, and I can not find words to express my meaning. I respect the American people, and I thought, father, that you with your gray hairs would express something more explicit than you have made known this evening. I do not possess the spirit of hypocrisy, and want everything said to be plain, direct, and to the point.

The commissioner regretted that it was not in his power, with his present information, to come at once to the point, as requested by his friend the head chief. "As I said the other evening, I do not speak with forked tongue, and am not the man to deceive my red brothers; but until they settle their respective interests among themselves it is plain I can not talk with that frankness and directness which is my habit and which I would like. I might the other night have made a proposition, but for the want of knowledge of

the respective interests of those represented here to-night it might not be just. When the Pillager and Mississippi Bands shall have settled these things among themselves, and stated the extent of the reservations which they desire, I will then be able to act understandingly and will make a proposition. I hope, under these circumstances, that my friend, Hole-in-the-Day, will see the propriety of my course and the reasons which have influenced my conduct."

163 HOLE-IN-THE-DAY. My father misunderstands me. I did not mean to impute to him a design to deceive us or a want of frankness; but I think he should have given us a general idea of what he wants us to do.

The commissioner said his friends of both bands can define their boundaries and describe what kind of reservations they desire. Should there be any difficulty in their doing so, he would do all in his power to produce a proper understanding between them.

HOLE-IN-THE-DAY. We understood all that before. All we want is a fair understanding. I may have uttered some words, father, which you do not like and you may have said some things which we do not like. Both should act in a forgiving spirit; and if such has been the case, let those unpleasant words pass without hard feeling. We have said enough and will now retire. We all fully understand what you want, and now is the time for consultation and reflection.

The commissioner said when they had decided among themselves about their boundaries, etc., he would have some figuring made on the map, so as to make the matter plain and easily understood.

HOLE-IN-THE-DAY. That is just what we want. We will select two men from each band to come up, after we have deliberated, to mark out our boundaries, and the land which we want reserved and hope those selected will be acceptable.

BUFFALO. Look in our faces, father, and say if you think we look like enemies! We are not enemies, father; we are brothers. We can, if necessary, deliberate upon your words this night, without sleep, but we would prefer to have time to think.

COMMISSIONER. That is not necessary. I do not want my red brothers to lose their rest. I want them to take necessary time.

BUFFALO. What time does our father rise in the morning?

164 COMMISSIONER. I rise early enough to shave every morning before daylight; and, I presume, will be here to-morrow before Hole-in-the-Day gets out of bed.

HOLE-IN-THE-DAY. Father, I am a young man, and want to enjoy myself and take my ease. Our father is an old man, and does not. That is the difference.

COMMISSIONER. Your father has to rise early to work for and take care of the interests of his red children.

HOLE-IN-THE-DAY. We are rejoiced to know that he takes so much interest in our welfare.

The delegation, shaking hands with the commissioner, then departed for their lodgings.

165 Third Interview

Interview between the Commissioner of Indian Affairs and the Pillager and Winnepec Band of Chippewas on Saturday morning, Feby. 17, 1855

These Indians, of which there are upwards of 2,200, exclusive of the Red Lake Indians, live in the northern border of Minnesota. The object of their interview this morning with Col. Manypenny was to make a treaty for the sale of their land to the United States. After a desultory conversation among themselves their principal chief, Flatmouth, in reply to the inquiries of the commissioner, said:

"My father and friend, I am glad you have come right to the point. My reason yesterday in pointing out the limits of our boundaries was to show you the country which you ought to have, and not to state precisely what our bands claim as a right. We are not like the whites. We differ among ourselves in respect to our boundaries. Our ideas, owing to our ignorance, are conflicting. We intended to designate what we want to cede. If we sell, we do not want to part with all. We want reserves to live upon at Lake Winnepec, Cap Lake, and Leech Lake. We feel that as we have yet the control and possession of our own lands, we should not part with them without reserving a home. We had better not be in existence than not to have a place we can call our own."

The commissioner asked them if reservations at those places would be satisfaction? They responded, Yes. He also asked them if they desired a reserve at Otter Tail Lake? They replied that if they had desired one there, they should have mentioned it.

The commissioner then informed them that he was prepared to make them a proposition. He would do so frankly, and hoped it would be acceptable. He proposed to pay them an annuity of
166 $20,000 a year for thirty years, the same to be paid either in cash or part cash and part goods, as the President might judge best for their interests; to furnish them with two blacksmiths, and tools, iron, steel, &c., for ten years; to erect a sawmill, with portable gristmill attached, and to furnish them with a miller for ten years; to give them at the first payment a present of $10,000 in gems, traps, blankets, &c.

The commissioner explained the reasons for limiting the services of the blacksmith and miller to ten years. At the end of that time, he had every reason to believe his Pillager and Winnepec friends would have made such progress in civilization as to be enabled to attend to their own business, that, by that time, they would raise up millers and blacksmiths of their own. It was bad policy for the Indians to rely upon others for what they can do themselves; and concluded by asking if they could repeat the proposition, and if they fully understood it.

FLATMOUTH. Father, I do not desire to repeat it, but we have reflected upon, and fully treasured up, all you have proposed and understand now, for the first time, what we were sent for.

The other delegates signified the same thing.

The commissioner explained the reason why he wished to reserve to this Great Father, up at the White House, a control over the manner in which the annuity of $20,000 was to be expended, either in money or agricultural implements, &c., as to him might seem best for the interests of his red children. He himself preferred it should be paid in money as soon as they knew how properly to take care of and appropriate it, because the sooner they were thrown upon their own resources the better for themselves. Until that time arrived, however, and until they displayed sufficient capacity to trade and manage for themselves, he wished to reserve the right to
167 their Great Father of expending a portion, at least, of their annuity in operating farms, buying agricultural implements, &c. The commissioner then caused the provisions of the Omaha treaty of last year to be interpreted for them, to illustrate his views upon the subject. He also informed them that he would reserve the right to survey their land, and divide it among them like the whites.

To these propositions the delegates signified their assent and said they understood the matter fully.

The commissioner desired to know what they thought of his propositions.

Flatmouth, after consulting with the other chiefs, said, "Father, you can see I am old. I see, father, you are old too, but I am much older than you or any one in the room. I came here to act not for myself alone but for my associates and my people at home. You desire to purchase our land—our homes—it is an important matter to us; and I therefore desire time for reflection until Monday morning. Under the circumstances stated, father, you would not think well of us if we were to jump right at your proposition without taking time to consider it. We should study the interests of our people.

The commissioner said he was willing to give his venerable friend all the time he could, under the circumstances of the case. Of course, if they asked time until Monday, it must be conceded, but it should be considered that the Great Council of the nation, now in session [line deleted] no treaty which they might make could go into effect, had only about twelve working days left. Consequently, whatever is done, should be done quickly. In view of this, he asked if the delegates could not go home, council together, and announce their decision at 1 o'clock to-day.

168 DELEGATES. We would rather postpone it till Monday; but will try and get through as quick as possible, and, if we make up our minds to-day, we will come here at once prepared to announce our decision. We desire to consult a friend in whom we have much confidence.

The commissioner said if they desired to consult a friend in whom they had confidence he had no objection. It should be borne in mind, however, that the subject of their negotiations was a matter which concerned himself and his red brethren alone, and no extraneous influence should be brought to bear upon their deliberations.

DELEGATES. We understand that, and we will attend to it.

The conference here ended, and the Indians took their departure.

169 Fourth Interview

SATURDAY, FEBY. 17, 1855—2½ O'CLOCK.

The Chippewa Band of the Mississippi resumed their interview with the commissioner, according to appointment.

A map of the country owned by them, drawn by Capt. Eastman, was brought forward and examined.

A letter from the Rev. Mr. Breck, an Episcopal missionary at Long Prairie, was handed to the commissioner and read, speaking in high terms of the character and conduct of Bad Boy, one of the delegation. Maj. Herriman, their agent, said, notwithstanding Bad Boy's name, there was not a better Indian in the tribe.

The commissioner explained to Hole-in-the-Day the number of acres in the tract which he was desirous of purchasing, which Paul D. Boileau, the interpreter, said it was difficult to make them understand, owing to the large quantity of acres in the tract. By dividing the numbers, however, he finally succeeded.

COMMISSIONER. Where do you wish your reserve, if you sell your country?

HOLE-IN-THE-DAY, pondering thoughtfully, said: Father, you ask us where we want our reserves set apart. This question implies that you want to buy our land. Do I understand you?

COMMISSIONER. Certainly; but I want you to have a home.

HOLE-IN-THE-DAY. We did partially understand, but now we understand fully what you want. Before, we commence to trade, father, let us lay dignity aside. Will you allow me to look at you as a trader? As you want to buy my land, I must be excused if I look upon both of us as speculators. I desire to act in this matter as a business man, and lay all dignity aside. You have just now told me the number of acres I own, and, of course, when men trade
170 for land they are in the habit of asking or offering so much per acre. Now, what are you willing to give per acre?

COMMISSIONER. The statement as to the number of acres in the limits of your reserve refers to the water as well as the land? How much water is there on it—how many lakes?

HOLE-IN-THE-DAY. Although, father, there is a good deal of water, there are a great many fine sights upon our rivers and lakes. I do not know how many lakes, but there is not too much water for the land, or for the convenience of those who may settle upon it hereafter. You need have no kind of fear that the water will run short.

or that there will not be always sufficient to cook by or wash with. I think the water upon the land is well proportioned. There is plenty of fish in the country, and you know, father, fish must have water to live. They can not get along without it.

COMMISSIONER. I proposed to make a round offer of a certain sum to be paid in a given number of years.

HOLE-IN-THE-DAY. I have a general idea of the way the whites do business. I want to know how much the country we occupy is worth in your estimation.

COMMISSIONER. It is worth, in yearly payments, say from $250 to 300,000, or 250 boxes (?) of a thousand in a box (?).

HOLE-IN-THE-DAY. Do not joke with me, my friend. I wish you to be serious, and I want a fair understanding. I want to ask you should we be thrown out of your possessions and you should take all the land, take all the water, take the graveyards of our fathers, is $250,000 all the land is worth?

COMMISSIONER. Yes; I think so.

HOLE-IN-THE-DAY (laughing). Our father is very stingy! Leaving business aside, and viewing it as one of natural feelings, everyone knows that there is not an Indian tribe in America but what calls you their "father." This being the case, what should you as in dealing with your red children? The natural feeling of a father is to try and help his children and leave them as a legacy
171 enough to save them from want, and enable them to live after him. See the Indians here—we all have fathers, but you are the only person living who we call father in common. It is in this view of the case, that we appeal to your liberality and good feeling in behalf of your red children.

COMMISSIONER. If you were my own children, I would not think it an advantage to give you more than you could manage and judiciously use. Labor, after all, my friend, is what makes the man. It is no advantage to leave children a large unproductive estate.

HOLE-IN-THE-DAY. Father, it is true; every word you have uttered is true. It is not often advantageous or profitable to leave children a large estate; but is not money—is not means—necessary to the civilization of those who have every thing to learn?

COMMISSIONER. Labor is the great thing to make men prosperous and rich.

HOLE-IN-THE-DAY. Father, it is true labor is the main thing. Everything shows it; that we have too much land, but those destitute of means ought to get enough to start on. Nothing can be done without money. Our father told us we had land which was of no use to us, and that he had plenty of money locked up, more than he wanted. Why, then, not act liberally and give us out of his surplus means plenty of money for our land?

COMMISSIONER. It is true my friend has land which he don't work, and is therefore of no use to him. I want to buy a part from him and pay a fair price for it. It will be his interest to sell, and the

more money he gets the worse it will be for the future of his tribe, because nothing but necessity will drive them to work.

HOLE-IN-THE-DAY. We want to dress like the whites. We envy them their comfortable clothing. We want to adopt their habits and customs, and desire to have the means to accomplish it.

COMMISSIONER. I am glad to hear my friend say so. I feel
172 confident the Indians can adopt and imitate successfully the habits, manners, and customs of their white brothers, and I am anxious to do all in my power to aid them.

HOLE-IN-THE-DAY. Very true. Father, you can see by our past and present conduct what we think of our Great Father. Whenever commissioners have been sent by him into our country to treat with us, we have invariably sold him portions of our land. We now want to sell the residue to our Great Father, that he may be satisfied, but we must be satisfied too. Our whole conduct shows our affection for our Great Father.

(Here the Indians and other conversed a few minutes, when) Hole-in-the-Day resumed. Father, the words I have expressed are just my views. I have said a good deal, and may have been too—but I am like a man traveling through snow, who clears it away with his stick that he may the better pass.

COMMISSIONER. Have you got the snow cleared away yet?

HOLE-IN-THE-DAY. Pretty nearly, but I want now to hear the commissioner's views.

COMMISSIONER. In addition to what I have indicated, I am willing to furnish a blacksmith and blacksmith shop and a mill and a miller, and to support them for a few years, but I want the Indians to be their own blacksmiths and millers after a while. I want them to learn every useful trade and avocation like the whites, and to do their own labor.

HOLE-IN-THE-DAY. Father, the reason why I desire to hear you speak is because I want to get a general idea of matters and things, so that after having your views we may retire and deliberate among ourselves.

The commissioner explained the nature of his proposition in a series of detailed remarks. He proposed to give them for their land a quarter of a million of dollars, run out into a series of annual payments, and a mill, miller, blacksmith shop, blacksmith, iron
173 and tools for ten years, besides breaking up some land, say 3 or 400 acres of land. The first year I shall provide for an additional present of $10,000, to be expended in guns, traps, &c. I think at the end of ten years the Chippewas will have some blacksmiths and millers among themselves, and that is the reason why I deem it impolitic to provide for their employment any longer. No one will work as long as he can get somebody else to work for him. Do you understand these propositions?

Delegate. We do, every one of us.

COMMISSIONER. I have no objection to your advising and consulting a friend, if you chose, in reference to these negotiations; but out-

siders should not be made acquainted or permitted to interfere with them while they are pending.

HOLE-IN-THE-DAY. I understand. One trader has one mind, and another another. People will differ about such matters.

COMMISSIONER. As I said before, I have no objection to your consulting a particular friend in whom you have confidence.

HOLE-IN-THE-DAY. Father, we will not be influenced by anybody. Here are the people [pointing to the delegates] who are to be consulted. When they are pleased that is enough.

COMMISSIONER. I did not suppose you were so influenced. There are a great many curious people in the world, who try to find out and intermeddle in everybody's business, and my object in saying what I did, was to put you on your guard against such persons. I would like to know when I may expect a final answer. The Great Council of the Nation has only about twelve working days more left and whatever is done should be done in time to enable Congress to act upon it.

HOLE-IN-THE-DAY. We will give a final answer on Monday next. I would like to know how the commissioner has got along with the Pillagers.

COMMISSIONER. They, also, will give an answer on Monday. I presume there will be no difficulty in so arranging it that both parties can get a hearing on that day. I will get my scribes
174 to work on both treaties, should we be successful in making them so as to avoid delay.

HOLE-IN-THE-DAY. Father, I understand that the value of gold is not now what it was in former days, owing to the great quantity discovered all over the world and that white money, being scarcer, is more in demand. As you will probably pay us in gold, you should therefore give us a good price.

COMMISSIONER. What you say is very true as to the discovery of gold, but it is not all coined into money. It is so plentifully used for earrings, breastpins, &c., that there is no danger of its falling in value. This being the case, my friend need have no fears on that account.

HOLE-IN-THE-DAY. Father, what you say is very true. I had an idea at one time that gold was a mark of distinction among the whites, and that all those who wore it were great people. I have lately found out, however, that those who wear the most gold on their persons were the least thought of.

COMMISSIONER. Hole-in-the-Day has said what is very true. Those who wear the most gold are seldom our greatest people. Great people prefer simplicity of dress. On this account, I want my red children to abandon their foolish ornaments, and like and dress like sensible white people.

HOLE-IN-THE-DAY. That is the reason why we want means. We desire to quit wearing blankets, which, when they blow open, expose our purses and everything we wear. If we had clothes like white people, we could hide away our money in our pockets.

COMMISSIONER. The best way to keep money in the pocket, is to open farms, cultivate the land, and sell the produce. The white man gets wealthy by labor, by the legal or medical profession, or by the mechanic arts and industry. That is the way the white man makes money to support himself and family, besides putting money in his strong box. That is the way, and the Indian should follow his example.

175 The delegates then shook hands, and departed for their lodgings.

176 Fifth Interview

SAT. NIGHT, *Feby 17.*

On Saturday evening (February 17th) at 7 o'clock, the Pillager and Winnepec Bands of Chippewas resumed their talk with the Commissioner of Indian Affairs upon the subject of selling their lands, in pursuance of their adjournment that morning.

The commissioner, after complimenting them on their punctuality, said he presumed they came this evening fully prepared to announce the result of their deliberation during the day.

The delegates signified that they had.

The commissioner said, if so, the best way was to lose no time, but to proceed with the work.

Flatmouth said he desired to tell his father what he has been, what he now is, and how he has been looked upon by the Indians and whites. "You see me here before you, father, and it would be useless for me to attempt to hide my age. My old head and my gray hairs tell for themselves. I have seen a great many snows and rains. It is many years, father, since I first became acquainted with the long-knives. A little before the war with Great Britain I met them and they hugged me and kissed me and treated me with kindness and promised to be my friend. They were also kind to my people. Before that time I was a British subject. From this kind treatment of me may be dated my first connection with the Americans. Since then, my father, I have been their steady and fast friend. [While these words were uttering, Flatmouth was seated, but he then rose, and, in a more animated manner, addressed the commissioner.] Now to the point, my father, as I must call you, although, from the difference of our ages, I might call you my son. I will speak to you plainly. I am not afraid to talk to a white man, because when I look back upon my life I can see no black stain on my path which should make me ashamed to

177 look you in the face. I do not speak with a forked tongue either, although being an old man when I talk my thoughts may take a different direction from what I intended. We came here this morning, we had a friendly talk; you gave us further time to consider of your propositions and said if we had a friend in whom we placed confidence we might consult him. We have consulted a friend whom we have known long and well, and with

whom we have had many transactions in the past, and he has, at our request, put our thoughts on paper. We heard your proposition this morning. We know and fully understand the nature and amounts of your offer. I do not wish to withhold from you what you want. You made us a proposition to suit yourself, but if we put in a little more, you must not think hard of us on that account. You must not feel angry because you may have to humor us. Do you see me, father? When I say a word I stick to it. If my name is not recorded in the annals of history according to the whites, I feel that I am a big man with my tribe. They have witnessed my actions and know me. You can see, my father, from my looks and from the manner in which I address you, what I think of you. I call you father, a name which we as a people give to none among our tribe. We look up to you for protection. If I were traveling and meet a person, and that person should be a spirit, I should ask that spirit for what I wanted. If I beg of you a little more money to clothe and provide for my children which I have left back, I hope you will excuse me. They are poor and in want, and expect me to protect their interests and provide for them. This morning when I spoke I had my head down because I did not know what I was about. Since then I went to my friend, he opened my eyes, and I now feel confidence. If I ask more than you offered it is because I know you are rich and I have left children behind me who are poor. When I left home, father, I did not know for what purpose I left. Since I came here I have found out what you
178 want, and am now coming to show you what I propose having done. Even if your heart was made of rock, father, if you could accompany me when I return to my home on the beautiful lake where I reside, and see my people coming nearly naked to meet me and ascertain what their great father has done to relieve their wants it would move you to pity, and you would excuse me for asking, on their behalf, a little more than was offered this morning. You see, my father, I am taking a great deal of pains to explain, because I am about to part with the graves of my fathers and to sell my birthright as it were. If I agreed to what you offer I want you to concede something also to my request, so as to lighten my burden and justify me in the eyes of my people. I had no idea when I left home you were so rich, but on my way here I have been surprised at the fine houses and great wealth of the whites, and if you give a few cents more to relieve the necessities of your red children, you will never miss it from your abundance.

"I am afraid, father, I am consuming your time; but you must bear with me and listen to the wailings of an old man who has but a few short days to live. He speaks on behalf of his tribe, and hopes you will listen to his words. I am getting through, my father, with my little speech. If you agree to its requests, when you see the northern lights running this way along the firmament, after we reach our homes, they will convey to you the shouts and salutations of the Pillager Band of Chippewas in gratitude for your kindness."

American Eagle next addressed the commissioner. "It is not because I am not bad-tempered and naughty, father, that you see a constant smile on my face. My face deceives you, for I am not what I seem. I call you father because you have the American eagle on your banner. I am also the American Eagle, for that is my name. When I heard your words I was working to support my wife and children; but at my father's request I left them to take care of themselves. Although I belong to a band living some distance apart from the Pillagers, we have left everything to the old man who has addressed you to-day. Our views are just like those of the old man, and if you do as he asks we will let you have our land. It is a general custom with our people to let the whites make the first proposition. When their traders go into our wigwams we inquire how much they ask for the article we want. You are, however, too high for us to place you in the condition of a trader.

"There was a great curiosity when we left home to see our great father, but there is another curiosity which we have not yet seen—our Great Grandfather. We will see him yet. We have been well treated since we left home by the whites. Those who have accompanied us have also treated us kindly. We have been very troublesome to them, but they have bore with us and have given us plenty to eat and everything we wanted; but, since we have been in this city, our great father has given us nothing—not even a cake!"

WINNESKICK followed. "If you send us back, father, without accepting our proposition, we will not think the worse of you on that account. But, if you accept, then the bargain is made. You are rich. You have it in your power to do us a great deal of good. You have only to will it and it is done. Only thing of the ingenuity and power of the whites. On our way here we have passed over railroads with lightning speed and sometimes underground. The whites are powerful, and can take the red man by the neck like a little dog and throw him wherever they please."

Buffalo said: "I have to make my little speech, too. I have only about four words to say. I do not want to throw myself in the way of the chiefs, but will say this: That what they do will be sanctioned by the bands. Our chiefs have deliberated and we will stand by their decision. You have told us that that if we would gain wealth and comfort we must work with hands, feet, and toes. We have worked, and have property, but don't, by rejecting our requests, scatter the fruits of our labor to the winds. You must remember, father, that, although we are red and you white, there is One above to whom we all have to give an account, and who will not permit acts of injustice to be done without visiting them with his displeasure."

MIZZAGARBOE. I do not want to say anything. I am this old man's [pointing to Flatmouth] head brave, and whatever he does, I will sanction.

North Star (without rising, addressed the commissioner from his seat). Your hands, father, have been shaken enough to-night, and I will talk without it. I am talking for my chief and whatever he does I will uphold it. I might say a great deal, but it wouldn't amount to much. We have put our proposition on paper, and have given it to our friend, in whom we have confidence. He has long been known to us, and is the lawgiver from the section of country in which we live. If you accept it, father, the bargain is made.

(Upon this, the Hon. H. M. Rice, to whom they referred, submitted the memorandum, modifying the commissioner's proposition. It is understood that it will require a payment of about 3 or 4 cents per acre for the nine or ten millions of acres which they claim.)

The COMMISSIONER. I have done thinking, and will have to close the bargain on the proposition of my old friend. I can not get over the moving eloquence of the old gentleman's speech, and there-
181 fore can only answer it by saying that I accept his offer. The amount you will get, my friends, under this treaty (should it be confirmed), will make you all well-off during your lives and your children after you. There is, however, one question to settle yet, that is the extent of the reservations which you may require for your comfort and support. To-morrow, being the Lord's Day, we won't do any work here, but on Monday morning we will prepare a paper to sign in accordance with this agreement.

In accordance, however, with suggestions afterwards made by the delegation, a paper embodying this understanding was drawn up and signed by the contracting parties in the presence of witnesses, when they shook hands and left for their homes.

182 Sixth Interview

On Monday, February 19th, at 11½ o'clock p. m., the Mississippi Band of Chippewas called upon the Commissioner of Indian Affairs to resume their negotiations for the sale of their land.

The commissioner remarked that he presumed they had fully considered his last talk to them.

HOLE-IN-THE-DAY. Father, we have not yet spoken to you frankly, although we have had some very good talks. Father, we have made up our minds to one thing: Your offer is too small. The payments you propose will not be sufficient to give us a start, and enable us to support ourselves while preparing to live like the whites. A great many of our children are so young that they can never receive any benefit from the payments which you propose. The only difference between us is that you do not offer us enough. You see, father, how we are situated. We want to change our habits and customs and live like the whites. How can we do this, without the means to start upon and carry out your views? My father, it is with no ill-feeling that we differ from you in this matter, but we must look out for our young. You want us to work, to change our habits, and live like the whites,

and I see the benefit of your advice, and so do the chiefs. I appreciate every word you say from the bottom of my heart, but if we begin a task so difficult, we should have enough to start upon to prevent failure hereafter. You will see, my friend, by summing up closely our numbers, and considering the various purposes to which the proposed annuities must be applied, that they are entirely inadequate. If you would change our habits, you must not withhold the means necessary for its accomplishment. You must give us enough for a fair start. We do not want money to squander upon paint, ornaments, or other trifling objects, but to purchase articles of necessity to give us a fair start. We will leave it to yourself, father,
as to what is right. We know you have a good heart. We are
183 not so ignorant but that we know those who are our friends;
but the means you offer are too limited to enable us to carry out your benevolent intentions. This is what we object to. The way we argue the matter is this: The thing we are about to do will make us either happy or wretched forever. It is therefore a subject which should be fully understood. You want us to be civilized—to adopt the manners and customs of the whites, but before this change can be effected there must be a good many things provided. Had we had experience in cultivating the soil, and some acquaintance with the arts of the whites, industry might do, but as we have had no such experience, nothing but means can insure success. This is all I have to say for the present.

The commissioner replied that it was a poor reliance to place confidence in money to produce civilization or anything else. Give me plenty of money and I will not work. No one will labor unless necessitated to do so. Still I understand and appreciate the motives of Hole-in-the-Day. The Indians have great ideas of annuity payments. With them it is annuities, annuities, annuities, all the time. It is doubtful, so far as their civilization is concerned, if it would not have been better for the Indians if they had no annuities. They would then rely upon their own exertions. As it is they rely entirely upon annuities. I am, however, willing to hear what my red friends have to say, and will be glad to hear them advance freely their views. The other day my friend Hole-in-the-Day said we were to treat with each other as speculators. Now, then, I have made my proposition, and I want to hear what he has to say.

HOLE-IN-THE-DAY. It is true that the other day I spoke about speculators; but, in the meantime, I know, father, you can not throw off your dignity and assume the character of a trader. Your main
object is to civilize the Indians, and you can not make a hard
184 bargain with us without defeating your views. It is very
essential that when we act in the matter we should have a clear and full understanding. It should be like a mechanical business, where, when the house is half finished, it may be so changed and modified as to give strength to uphold its head. We must ponder well upon it, so that we may be eventually benefited.

(Here the delegates asked time to deliberate among themselves, and at their request the room was cleared of all but the commissioner. Having got through,)

The commissioner informed them that he was now prepared to hear the result of their chat.

Hole-in-the-Day, first shaking hands, then addressed him: "I call upon the Master of Life to hear the words I am about to utter. I am about to talk respecting the property which I own. The Master of Life, who has made this world, has put us here. He has made everything we own for our benefit that we may profit by it. Every man living may thank the Master of Life that he has placed him here and given to him the means of making his support by his own exertions. Father, you now shall hear me upon the subject of the sale of my land; I am now coming to the point. Father, I am but poor and ignorant in my own estimation. I have not the power to express myself—I can not overestimate myself. When I look around me to the four corners of the earth and at everything within my sight and reflect upon what we are and have been and what the whites are, I can not but feel that a great weight of responsibility rests upon me in what I shall say and do on the present occasion. It is seven years ago since I first took my present position in my nation; it is seven years ago since I first headed the band here; it is seven years ago since I first began to exert myself for my people's advancement. In this I have had the assistance of some annuities and the assistance and advice of the whites. In
185 thinking over the matter delegated to us we have brought them. like mechanics, to perfection. We know the wants of the Chippewa Nation—no one knows them better than ourselves, and we can not be blamed if we look after and take care of our own interests. In looking away farther back—considering the Indian habit of living—you must admit that we know our wants better than anyone else. You see, my father, I have taken a great deal of pains to explain what our situation is. We desire to convey to you our own ideas. My father, your name is the Long-knife. We call you father because we look up to you for protection. Now, listen to what I shall say. You see us here—we the Chippewa Indians. We want you to be friendly. We do not want a mock show. Do not look upon us as you would upon the English. We are your children. We do not live outside, but within your Nation. We are your friends. Why, then, look upon us as a foreign nation? My father, we want your friendship. No use of making of us a mock show as a separate nation. We want to give ourselves up to your Government. We want to cease to be Indians and become Americans. We want to be citizens and to have the right to vote. All we desire is to imitate the whites and to follow their example. We want to live as they do. You should look upon us as your children. A thick veil hides us from your view. Remove that veil and see if we are not as good Americans as the whites."

(After some consultation with the other delegates.)

HOLE-IN-THE-DAY (resumed). Father, we want to be citizens, and treated like the whites; and if you grant our request and you should have a fight with any other nation you can call upon us and we will form a portion of your militia. We know how to fight and will stand by you. We want the right of suffrage, the right to vote, to be subject to your laws, and have set our hearts upon it. Grant our requests, and you will find that we will be up to our words. We might
186 talk until we died—we might speak a hundred years—but we can plainly see that we can never be anybody until we become American citizens. I hope, father, you now understand our views.

COMMISSIONER. I understand them very well, and am happy to learn that the chiefs have turned their thoughts that way. They desire to be made white men and citizens by their Great Father; but the matter of making voters does not belong to Congress; that is a thing which must be done by the States or the Territories. Minnesota can, if she chooses, make the Chippewas citizens, and as soon as they understand their rights and duties, and the obligations which citizenship imposes, she doubtless will do it. I will do all in my power to prepare you for that purpose by imparting to you a knowledge of their duties and of the arts of civilized life.

(Hole-in-the-Day here moved his chair in front of Paul H. Boileau, the intelligent interpreter, for the purpose of having the process of making citizens explained to him, and, judging from his numerous enquiries, seemed to take a deep interest in the matter.)

HOLE-IN-THE-DAY. The great council can enact such laws as will bring that about hereafter—the right of voting.

The commissioner assented. If the Chippewas will act up to their promises, the time would soon come around when they would be invested with the rights of citizenship. He hoped to live to see the day when Hole-in-the-Day himself would be in the great council of the nation.

HOLE-IN-THE-DAY. I have no doubt of that.

COMMISSIONER. Such things depend among the Indians, as well as among the whites, upon the conduct of the individual. Some whites start in life with plenty, but soon squander it; whilst others, starting with nothing, by their industry, energy, and intelligence work themselves into the highest positions—even into the White House itself.

187 HOLE-IN-THE-DAY. I understand all our father has said. We have heard these things before. You told us that time was short the other day, and we had better proceed to business.

(Those not connected with the negotiation here retired, at the suggestion of the commissioner.)

The commissioner suggested that Hole-in-the-Day should begin the talk.

Hole-in-the-Day said he wanted a clause put in the treaty providing for the Chippewas becoming citizens, and that they should be governed by the laws of the United States.

COMMISSIONER. I shall prepare an article looking to that object—such an article as he supposed the Senate would be willing to adopt.

HOLE-IN-THE-DAY. We want your assistance to carry out these views. You call us your children and must humor us. I want you, father, not to listen to what others said in opposition to these views. You must shut your ears to adverse councils. You look like a man who have your own notions and are determined to carry them out.

The delegation having consulted together for some time, Hole-in-the-Day asked when the commissioner could see them again.

The hour of 4 o'clock was fixed upon, and the delegation took their departure.

188 Seventh Interview

MONDAY EVENING, FEBY. 19—9¼ O'CLOCK AT NIGHT.

The Mississippi Band of Chippewas, according to appointment, resumed their negotiations.

The commissioner congratulated them upon their punctuality in appearing so close to the hour designated—although, Indian like, they were a quarter behind it, yet it did very well. He hoped they were ready to come to the point.

HOLE-IN-THE-DAY. The time has arrived, my friend, when your red children are perfectly at a loss what to do—not that they can not talk and express their wishes (for, generally, the Indians have plenty of gab), but there are, in places of this kind, something which debars their acting with promptness. I am an Indian of very little understanding, but I know what my people want. Father, look at your red children—give them time to reflect. Those who have had experience know that all they can do is to bow down their heads. You can see, my father, what point we have come to. When we look upon these cities, their fine buildings, and the numbers and wealth of the whites, and reflect upon what the Indians have been, and upon what the whites have come to, we must have time to reflect, for meditation is everything with an Indian. When we view the past, and reflect upon the fact that the Indians once owned the land covered with these cities—when we think of our former treaties and past transactions with you—we understand what was your object in sending for us and what you intend to do with us. When, in view of all this, we come to make a new treaty for the sale of all that is left of our land, and to change our habits of life, we ask will it be our ruin or will it not? Under these circumstances we are compelled to reflect. Father, be patient with your red children. Let us take time to consider and have a full understanding.

189 We look at everything. We are not near so ignorant as white men think us to be. When we view the country once owned by the Indians we feel like a wild beast driven into a hollow tree where he can't get away. That is the way, father, we now feel. You may think, my father, from our hesitation and plainness of speech, that we have not a proper respect for you. This, how-

ever, is not the case. The matter is important to us; and if we can not come to a conclusion, give us a little more time. It is for these reasons that I have uttered what I said just now. It is twenty years past since we made the first treaty. Since then we have made several others, in which we have parted with most of our land. We have not been well treated, and experience shows that we should be very careful before we make another for the final disposition of our land. We don't hold the land now from you. We therefore have it in our control, and before we give up our rights we should be careful. We do not mean to insinuate, father, that your intentions towards us are not good—that you do not mean to do right by us. As I said before, we have, through experience, learned a lesson, which teaches us to ponder well before we act. You can not [line deleted] the point.

COMMISSIONER. I want you to take time enough to be satisfied in your own minds. How much more time do you think it will take?

HOLE-IN-THE-DAY. We will not detain you much longer. We will smoke over it again; and to-morrow, at 9 o'clock, will give you our terms.

COMMISSIONER. Bid you well—

(And the delegation took their departure.)

190 Eighth Interview

TUESDAY AFTERNOON, FEBY. 20, 1855—2 O'CLOCK.

The Mississippi Band of Chippewas, according to appointment, again waited upon the commissioner, who said he had waited upon them since 9 o'clock this morning, with ears open to hear what they had to say.

After consultation among themselves, the Hon. H. M. Rice, of Minnesota, was to requested to talk for and on their behalf. Mr. Rice said they were the first Indians of the North who had expressed a desire to have such measures taken as to induce them to become white men. They were convinced that this was the only thing which can save or satisfy the tribe. They wish to have their means in their own hands like the whites. They desire to become white men, and felt satisfied that they would succeed in a few years, if at all. If at the end of that time they don't succeed they think it would be useless for the Government to attempt to do anything for them. They wish, in the first place, as far as that can be done here, to be placed upon the same footing as a white man, and leave the balance with the legislature of the Territory of Minnesota as to the proper time to make them citizens and enable them to enjoy its benefits. In order to accomplish this object at Lake Superior last summer they proposed to give up all their rights to their country, and they wish to have their farmers, blacksmiths, &c., in their own employ, and dependant upon them for their compensation; they want the present system done away with. It is true, the system costs the

Government a good deal; but farmers, blacksmiths, and other employees have their favorites among the Indians. Those they like they will do everything for, and for those they don't they will do nothing. They want it fixed so that mechanics and others who choose may go and establish themselves on this reserve. * * * Their annuities will soon cease, and this is the last treaty they will have to make with the Government. As this then is their last chance, they hope you will help to lift them out of the mire
191 and place them on dry ground. They desire to make farms, buy cattle and stock, and they want the means to do it. In order to carry out their object and explain their views they have put down on paper what they think will do. They hope you will not be limited in this matter by what you may think the value of their land, but will consider what is necessary to enable them to change their habits and make them good Christians. They wish to have conferred upon them the rights of citizenship, so far as you can do it, and the Territorial legislature can furnish it. (Here Mr. Rice entered into specific details of the various items asked for.) Should you think this too much they ask you to look back to former treaties, and consider the great quantity of land which they have ceded, and the small consideration paid therefor. They want their father, in these negotiations, to look back as well as ahead, and consider the circumstances of their treaties and connection with the Government. This is the result of their council this morning. They wish it fixed so that blacksmiths, house carpenters, &c., may be left free to go to their country, and be employed and paid by themselves. They also ask the right and privilege of buying and selling Government land like white persons, and will name hereafter the places where they desire to receive their annuities.

COMMISSIONER. What extent of reservations will they want?

MR. RICE. They have not had time yet to consider that. Whatever you may think right, and are willing to concede to them.

COMMISSIONER. I would very much to accept their proportions, if I could do so with propriety, but I can not do so without further reflection. I will, however, take them up, examine them, and see how far I can go in relation to them. I shall take a little time to consider them, perhaps, until to-morrow morning; but, if I determine sooner, I will send for the delegation.

(Clement, the brother of Paul H. Boileau, acted as interpreter during this interview.)

192 Ninth Interview

WEDNESDAY, FEBY. 21—7 O'CLOCK P. M.

The Pillager and Mississippi Band of Chippewas, according to appointment, appeared to consider the treaty which had been prepared, in pursuance of the understanding had with the commissioner.

The commissioner read the treaty by sentences, and it was interpreted by Paul H. Boileau, with the explanations which were made of its provisions.

HOLE-IN-THE-DAY. We have been always very prompt in coming forward and stating what we want. We have made our terms, and what more could we say? When we came to the point in which it was necessary to act we thought of a friend whose advice we desired to have. We mentioned the fact and you said we might consult him. We did consult him, have made our proposition, put it on paper, and, if it is accepted, we shall stand by it. My father, why do we call you father, and you call us children? It is because you are appointed to protect and watch over our interests. When we make a proposition which will drive us to work, and compel us to change our habits, why don't you accept it? Accept it, father, and you will find by the result that that is the way to bring us Indians to work. A word of truth, my father, never needs any proof. Take your rolls and see how long we have received annuities. Come into our country, look at our condition, and see how we have profitted by them. Thousands have been expended in annuity payments, and what has it benefited us? Before these payments commenced we were better off than we are now. We then hunted and relied upon our own exertions, and our traders furnished us, in exchange for the fruits of our labors, enough to supply our wants. Father, we were never in a state of poverty until after we received annuities. Why were we fed and clad then as well as now? We had to work in an honorable way; we had nothing else to depend on that was the reason. I have no fault to find with the articles of the treaty just read except one.

COMMISSIONER. What part of the treaty do you find fault with?

193 HOLE-IN-THE-DAY. I find fault with that portion of it which continues the practice of employing blacksmiths, laborers, schoolmasters & farmers by the Government. We have been constantly paying money out of our annuities to these persons, without ever having received any benefit. It is a useless waste of money which could be better employed for the same objects under our own direction.

COMMISSIONER. I think we can obviate these objections and yet all right. I do not want to employ blacksmiths, farmers, &c., for you any longer than till it shall appear you are competent to get along and manage your own business. The clause is conditional. I am willing to compromise the matter, and strike out all but teachers—I do not mean by that missionary teachers. I refer only to such as are capable of giving instructions in education, &c.

HOLE-IN-THE-DAY. The teachers who have been sent among us have never done us any good. They seem to care about nothing but their salaries.

Hon. M. M. Rice said that was literally true. He did not know a single Indian who had been educated by them, notwithstanding the large sums expended out of their annuities.

HOLE-IN-THE-DAY. Listen father to me one minute and I will make you understand what I mean. In all our treaties there are provisions made for laborers, blacksmiths, teachers, &c., and we have expended a goodly amount for them. It has done us no good. It is very essential that the Indians shall be thrown on their own resources. The country is getting scarce of game, and we can not get along without changing our habits. We have tried the old system and found it wanting. We should therefore try a new one. Under the old system we are sinking into ignorance worse than ever before. You can see the reason of this: Our people are getting to know the use of money, and when they see a person working for them they say there is no use in our doing anything for ourselves. They say here is our servant, here is our slave—we pay him to labor—why then shall we work when he works for us? With the exception that it does not do away with this practice under former treaties,
194 I have no objection to the articles of the proposed treaty. I have studied its provisions. The Indians have given away all and leave themselves no alternative but to work. They know, under the proposed arrangement, they must work or starve.

COMMISSIONER. I am willing to do away with the employment of men to work by the Government, but I want something reserved for educational purposes. Don't you, Hole-in-the-Day, feel the want of education? Would you not, for instance, like to know how to read this paper [holding up the draft of the treaty]?

HOLE-IN-THE-DAY. Father, it is twenty years since we began to receive annuities. Refer back and you will find these stipulations for the employment of laborers, teachers, &c. They have done us no good. We have remained enough in ignorance, depending upon others, and we now want to try and do something for ourselves. You will see that for twenty years money was appropriated for education, but what good has it done us?

COMMISSIONER. How can you educate your children without some such provision is made for the purpose?

HOLE-IN-THE-DAY. In looking back, father, on the past, I can see nothing to blur the views which I have expressed. So long as we feel confidence in annuities we think we have nothing to fear; but, under the proposed treaty, the Indian knows he has something to fear, because he will soon have nothing to expect except from his own industry. This transaction here is calculated to make an Indian think. If he looks ahead, and looks back twenty years, he will then see what he has profited by the annuities, and what he may expect from the future. It will teach him a good lesson. The little pieces of land we get by this treaty will in twenty years be our only resource and these we will improve and beautify by our own exertions. In twenty years our annuities will cease and then we will have nothing to rely upon but our own labors. Emigrants

are coming among us. They won't be satisfied with the land now open for entry, and we can not resist their encroachments, if we would. We should therefore prepare for a state of things which we can not avert and settle down like the whites. Father, as to education, I am in favor it as much as any one. I know its value, and feel its want; but if I wish to educate my children I can take my own money and employ my own teacher. I want to educate my children. Father, the reason why I have said so much is that I am anxious to explain my motives. I want a good pile of money to start upon. A good start is an important point. We are all fond of our children. We know and feel the necessity of education; to effect this, we must have means. A lot of us get together and we say our children ought to be educated. To effect this all know we must have a teacher. We employ such an one as we think will suit. We will then have him under our control, because there is no other influence to operate with him. There is a schoolmaster in our country, but I want the privilege, if I don't like him, to employ another. Your poor red children understand well, from experience, what they want, and to explain this has been my object. Do you understand me, father?

COMMISSIONER. I understand you fully.

HOLE-IN-THE-DAY. We have traders in our part of the country. They generally come from New York. They show us their goods, and we buy them if we like them and want them. We desire to have the same privilege with regard to teachers. If we like them and want them, we will employ them, and not otherwise.

The Hon. H. M. Rice said the half-breeds among these Indians are generally educated men, but not one of them is indebted for it to Government schools. This, he added, shows the necessity of trying the voluntary system, as Hole-in-the-Day suggests.

FLATMOUTH. Father, listen to me for one moment. You would never have seen me here, at my advanced age, if I had not had assistance. The half-breeds took me from my home, and hauled me along to the agency. I am pretty old, but I am not without shame, or I would have returned from the agency. Had I not found a friend there I could not, my friend, have come here. I do not hear very well, but there are persons with me who fully understand. I see what you give me—it is just what you promised. I am pleased. Whenever I speak, I speak to the point, and when I agree to anything I stick to it. I am very glad to meet you, my friend. I have agreed to what you have done and it would be unbecoming in me to change my word. I would not honor your words or my associates if I did. I have already put my name on a little piece of paper, but I will sign that which you have just read to make it stronger. You are high and honored among your fellow men, or you would not have been appointed to make treaties with your red children. You own now, by the treaty, to the line. I have agreed to that. My friend, you have not much

time to talk, and all I need say is that my word is as good as law, and my hand will go to that treaty. I have one thing to ask. I feel highly honored by having been looked upon by you and by my friends as worthy of taking part in this transaction. In throwing everything into your hands, father, I see I have done the best for my people and that I have not been deceived. There is another point; you may think, father, the traders will cheat us. They won't do it. We will not permit them. We will take care of ourselves. I am a very old man, but am a great hunter yet, and don't owe a man on earth a cent.

BUFFALO. Father, it is hard to get me to understand anything. Sometimes I hear a man talk a long time and I can't understand anything he tells me. I signed a paper here, too, the other evening for a certain amount, but there are too many things in the paper just read for me to understand. Father, I just want a little time to consider and reflect upon it, so that it may be explained and fully understood. We will help each other and will go home for that purpose.

COMMISSIONER. I do not want you to sign it to-night.

HOLE-IN-THE-DAY. Father, you have heard what I have told you. I won't flinch from what I said. I consulted my friend there [pointing to the Hon. H. M. Rice] and he put down on paper what we wanted. He is an Indian now, but won't be an Indian any longer if he flinches from what has been done.

197 COMMISSIONER. I agree to all your propositions in the main, but I can not consent that you shall have the right to apply all your funds, without any reservation whatever for education. You talked about working, Hole-in-the-Day! Why, I felt your hand just now, and I find it as soft as any lady's hand in Washington. I, however, admire your ideas about the necessity of working, and hope you will stick to them. It is a good resolution. I have no objection to your hiring your own teachers, but there must be a fund reserved applicable to that purpose. Go home, my friends, and consider of it.

HOLE-IN-THE DAY. Father, you must not misunderstand us. We have no objection to education. I told you we wanted to have our children educated. We also want schoolhouses, but as to teachers, such as we have had, we know too much about them. We object to have teachers whom we don't like forced upon us. They come not to teach but to get money and have their ease.

COMMISSIONER. We will try and have the evil referred to corrected. Suppose, however, we set apart the fund and let the Indians employ their own teachers. How would that do?

Hon. H. M. RICE. I think that is a good idea and will be acceptable.

HOLE-IN-THE-DAY. Father, if you want to have us educated so bad, why don't you take some of your own money instead of ours and sacrifice it in upholding the present system?

The delegation then took their departure.

(Commenced, Feby. 21, 7 o'clock p. m..)

198 Tenth Interview

THURSDAY EVENING—7 O'CLOCK,
February 22, 1855.

Both the Pillager and Mississippi Bands of Chippewas met the commissioner this evening to consider the project of a treaty read to them last night, with some trifling verbal alterations.

The commissioner asked them if they knew that this was Washington's Birthday?

DELEGATES. Yes; we understand that it is.

COMMISSIONER. Flatmount, I see you hold your head down; what are you thinking about?

FLATMOUTH. Nothing; I have just held down my head. What should I think about when I know that everything is right?

COMMISSIONER. How do you know that, Flatmouth?

FLATMOUTH. When men of truth and veracity have to do with each other, what can there be behind to cause them to mistrust?

Buffalo wanted to know if the commissioner was not tired of so much work.

COMMISSIONER. Pretty tired, Buffalo, I assure you.

The commissioner then asked if any of those present had been in the Watchhouse the other night.

The Indians all denied the soft impeachment; but Croping Keys said if the newspapers said the Winnebagoes, as he understood they did, there could be no mistake, as they wear their hair different. If the statement that Winnebagoes were in the calaboose was printed in black and white it was doubtless true. The Chippewas would not disgrace their father by getting drunk. In walking about I see Americans upon the pavements with singular eyes and curious motion, and it may be that they were some of themselves in the Watchhouse.

(Episode.) While the treaty was being transcribed it was suggested that Mizzagobe was a great juggler and story teller, and some amusing specimens were given of a man who could make
199 "a circle around the sun" and who could sing a song and, while singing, make cedar leaves run out of his mouth." Upon being questioned by the commissioner as to whether these things were believed, Mizzagabboe said he thought not. Such things were mere matters of words among the Indians—there was no veracity in it. "Major Gabble," as the whites call him (from his loquacity and volubility), was the man who took Governor Simple, of the Hudson's Bay Co., prisoner many years ago, and he gave a detailed statement of the circumstances attending that affair, in which he himself was wounded from a pistol shot in the hands of the governor. It occurred while he was in company with a war party against the Sioux on the Red River of the North. In the first place he did not know his companions were on a war party. It was agreed that the one that made the governor prisoner should receive $7,000. He

hopped on briskly when they met, in the hope of getting the prize. The governor shot him in the abdomen. "It is by reason of my taking that enemy of your country and four other officers," said the major to the commissioner, "that I wear these white feathers which you see in my headdress." The red feathers are for Indians captured or scalped in war. He only got $700 of the money, and that was paid by Mr. Grant, whose son is now a member of the Legislature of Minnesota. He said he was a friend of the whites, had fought for them, and was willing to fight against their hereditary enemies, the Sioux, with whom he understood they, the United States, were about to be at war.

Commissioner. How do you know that we and the Sioux are enemies, and about to be at war?

Mizzagarboe. The Sioux are our hereditary enemies, and as such, we are authorized to fight them. The papers printed here get out to our country, and according to the traders and others they state that the Sioux and the United States are going to war. That is the way we know.

The treaty was then read by sentences interpreted.

Hole-in-the-Day expressed some hesitation about the provision providing for the employment of teachers. He considered it a very important matter, and hoped it would be stricken out.

It is a very hard lot for Indians to know how to live. None of us know what will become of us in the morning, and for that reason when we do anything we should do it right. We should reflect and meditate, and not be in too much of a hurry. We should look back and view the past and look ahead and view the future. When you look back and see the past and the errors and wrongs which have been committed, it will enable you to avoid them in the future. It is also good to look ahead, and do all you can to provide for the future. I see where I am now—I see all here before me, father; and I can look ahead to see the day when, if we persevere, the future will be bright before us. Nothing is done without the will of the Great Spirit, and if he wills that I shall sell my land, it is an impulse from the Great Spirit. Nothing of that kind is done, but what is done by his will. In transacting business of every kind when as I said before we look ahead how can we tell whether the morrow will be a fine day or a hurricane? How can we tell whether it will be sunshine or rain? When I see the Indians here all depending upon my will in this matter, I feel the importance of ceding, in pursuance of his will, the lands which the Great Spirit has given me.

Flatmouth rose to give his idea about the matter. Father [said he] you must always make allowances for old men. On occasions like the present, I always attempt to give my ideas, such as they are. I always envy big men. They are the kind of men I like to hear talk, not that I am their equal, although in some respects I may resemble them. They have the benefit of education, and they can put their ideas on paper, and send them all over the world. We are ignorant. We don't know much, and if we desire to send our

201 ideas to a great distance we can not do it, unless some one does it for us. Father, you ask me if I am ready to sign the treaty? That, father, is a very grave question. Do you think, after what I said, I will withhold my signature and violate my word? I came here for that purpose and am prepared to sign. I think, father, you will sign it also, because you put your name to the paper the other night. I don't blame you for taking your time. It is our fault. You have taken the papers and made them as perfect as possible for our benefit. One thing, father, I forgot to mention. I want a copy of the treaty, so that we may take it home and refer to it at any time that suited our pleasure. Whenever anything is sold it goes by measure, or weight, or the value of the thing. When our Great Father formerly asked us for land we gave it for nothing, as it were. This transaction is different, and I must compliment my great father [the agent] because he has always been a friend of mine. I respect both him and my father, the commissioner. There is one thing I want, which will not cost anything. I want credentials to show when I get back among my people that I have been to the city of Washington. I am a very old man, and may soon die, but I want to leave something to my children to show what sort of a man I have been. This, I hope, my father will grant. I will also say that whoever makes the annuity payments should understand that we will expect him to comply with everything on that paper. We will ask nothing more nor nothing less. Our young men and women all will expect it. Father, everything is now brought to a point. We now fully understand the treaty. All we have to do is to put our names to it. If we get the $10,000 in money or goods, to take home, our people, as well as ourselves, will be perfectly satisfied.

The delegates then retired.

202 DOCUMENT 6

[Letter February 23, 1855, Commissioner Manypenny to Hon. R. McClelland, Secretary of the Interior, transmitting treaty of 1855. Original on file in Department of the Interior.]

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
February 23, 1855.

MCCLELLAND, HON. R.
Secretary of the Interior.

SIR: I have the honor to transmit herewith, to be laid before the President, and if deemed proper to be submitted to the Senate for its constitutional action, certain articles of agreement and convention concluded on yesterday with the Mississippi, Pillager and Lake Winnibigoshish Bands of Chippewa Indians in Minnesota by which they cede and convey to the United States all the lands owned and claimed by them in that territory, and whatever right or interest they may have in other lands in common with other Indians there or elsewhere.

The quantity of land ceded according to the boundaries defined in the first article is estimated at from 11,000,000 to 14,000,000 of

acres, beside which those Indians (and especially the Pillager and Lake Winnibigoshish Bands) have some right or interest in a large extent of other lands in common with other Indians in Minnesota, and which right or interest, as above stated, is also ceded to the United States.

The aggregate amount of the consideration stipulated to be paid in money and otherwise may be stated at about $1,000,000.00, which is to be in annual payments, running through a period of thirty years, without interest.

With the exception of an unimportant arrangement with the Pillager and Lake Winnibigoshish Bands in 1847, which expired in 1853, those Indians have not been parties to or participants in the benefits of any treaty with the United States. Our Indian policy has not heretofore been extended to them, and they have suffered in consequence.

The Mississippi Bands have for some years received small annuities. The provision made in the recent treaty at LaPointe, with the Chippewas of Lake Superior, for the settlement of the
203 existing engagements or debts of those Indians, seems to justify those who have claims against the Mississippi and other Bands, parties to this agreement, in expecting something of the same kind; and the Indians have conversed with me on the subject very frankly and with a surprising knowledge of their affairs. They appear to desire a class of persons who have resided among and dealt with them to be to some extent provided for; they exclude from the arrangement all who traded with them in former years when furs and skins were abundant, and when all their labor was turned over to their traders, and likewise those who have but recently gone into their country to trade, because it was expected that a treaty would soon be made. But such as have resided among and dealt with them since the game began to decline and who have enabled them to sustain themselves in times of scarcity and necessity by furnishing them with supplies on credit are the class for whom, to a limited extent, provision was requested by the Indians and designed to be made. There appears to be from the peculiarities of the case a propriety in the provision, and the control given to the Secretary of the Interior of the whole subject will it is believed insure a faithful application of the money.

The annual payments in money proposed to be made to the Mississippi Bands under these articles are $20,000 for 20 years, per 3rd Article	$20,000
Their share of the amount payable annually, under the treaties of 1837 and 1842, for education, Smith and Smith shops, etc., etc., as per the 4th of these articles	3,400
(It is to be remarked that a part of the last sum (3,400.00) will soon cease by limitation and the balance thereof has not many years to run.)	
Total money payments	23,400.00

This will make a per capita of about $10 annually to each individual of the Mississippi Bands.

The manifestation of a laudable desire on the part of these
204 bands to manage their own affairs, and the reasons ably presented by them for that policy, induced us to believe that it is proper, for the time being, to commit the management of their tribal and private affairs, in a large measure, to these bands, relying, in case of their not profiting by this confidence, by the provisions of the 5th artcile, authorizing the President, when in his opinion their affairs require a different arrangement. "To cause the said annuities, instead of being paid over and distributed to the Indians, to be expended or applied to such purpose or objects as may be best calculated to promote their improvement and civilization."

The aggregate number of acres in all the Indian reservations provided for in the instrument is, as calculated by me, 440,000 acres, including land and water.

The lands to which it is proposed by the same instrument to extinguish the Indian title extend along both sides of the Mississippi River, to and including its sources, a distance of about three hundred miles, following the course of the stream, and a considerable portion of them are believed to be valuable for timber and for agricultural purposes.

Very respectfully, your obt. servt.,

GEO. W. MANYPENNY,
Commissioner.

205 DOCUMENT 7

[Treaty of February 22, 1855, 10 Stat. 1165. Not reproduced in this record.]

206 DOCUMENT 8

[Report of Herriman, Chippewa Agency, to Superintendent Gorman, October 17, 1855. House Executive Document #1, 34th Cong., 1st sess., pt. 1, pp. 370–375.

CHIPPEWA AGENCY, *October 17, 1855.*

SIR: Each year's experience strengthens the opinion formed during the first year of my residence among the Chippewas of the Mississippi "that these Indians can be civilized." All that is required is steadily adhering to that line of policy which experience has proved to be the most beneficial.

One, and perhaps the greatest, hindrance to the advancement of the Indians in civilization is the frequent changes in general pol-
207 icy pursued towards them by the Government; the frequent removals that have heretofore been required of them have retarded very much their advancement; allowing large sums of

money yearly, to employ a number of mechanics at one agency, has tended to confirm the Indian in his naturally indolent habits. The system of education generally practiced among the Indian tribes, educating them from books rather than in the workshops, has been a source of evil rather than good.

The policy of the present Commissioner of Indian Affairs, which, if steadily pursued, is one which will do more towards civilizing the Indian tribes than any that has been previously adopted by the Government. Already it has been attended with the most beneficial results, at least so far as the Chippewas of Mississippi are concerned. Permitting the tribes to select small tracts of land, sufficient when adequately cultivated to support them independent of their annuities, if husbanded; confirming to them the title in these reservations; breaking for them on these reservations sufficient land to give them a practical illustration of the advantage of the white man's method of cultivating the soil; compelling them, if they would save the crops, to do their own fencing; furnishing them with just sufficient help to teach them when, how, and what use to make of seed. Such is, in part, the policy of the present commissioner, as portrayed in the late treaty with the Chippewa Indians, and to it the chiefs subscribed with hearty good will; feeling that now, for the first time since their intercourse with the Government commenced, that they have land which they can call their own, without the constant fear of soon being called upon to remove from it.

Hole-in-the-Day, the leading chief, has set them a laudable example in farming; near the agency a piece of land, containing about sixty acres, had been broken and partially fenced; upon this piece of land, after his return from Washington, he resolved to work, and with such industry and perseverance did he labor, that during the payment he was enabled to sell to the Indians between two and three hundred dollars worth of vegetables, besides having sufficient for winter's use for his own family, and oats and hay for his stock. Each day, from early dawn till dark, could his wagon be seen standing in the centre of the Indian encampment, surrounded by men, women, and children, buying his potatoes, squashes, beets, turnips, corn, pumpkins, &c. "This, my brethern," said he, "is the result of my farming; while you have been wandering, pursuing the uncertain chase, I have been laboring; you are poor, I am rich; I have no fears for the winter, as I have sufficient to carry me through; profit by my example." I can not but congratulate the Commissioner of Indian Affairs upon this practical evidence of the soundness of his views in giving or securing to the Indians reservations from which they feel assured they will not be required to remove; I know of several Indians who will, if they live till spring, follow the example set them by their head chief, and another year the agent will have the pleasure of reporting a rapid advance made by Indians who have received less aid from the Government than most tribes within the boundaries of this Union.

A marked improvement is going on among these bands (the Mississippi) as to their dress quite a large number of them have

208 adopted the dress of the whites as a whole, while a still larger number have in part. This, to me, is one of the most interesting features in their advancement towards civilization that has been made since my residence among them, and it appears to me to be one which should be fostered and encouraged by the officers of the Government to the extent of their ability; my theory is, that no Indian (or a white man either) can ever labor to advantage, so long as one arm is required to hold on to his blanket; discarding the blanket, the arms and body are free, then only is the will required; with such examples as their head chief has given them, the "will" will not long be wanting.

As an encouragement to discard their own dress, care should be had in selecting their goods for annuity payments; to purchase such articles only as will be useful and attractive; select their calico of pleasing patterns and fast colors, to encourage the wearing of frocks and washing; give them linseys, flannel and stockings, rather than leggins and strouding. Give me a sufficiency of linsey, calico, and stockings, and I will guarantee that in two years every woman in the tribe will discard the stroud and leggins; shawls will then take the place of blankets, and the habits of civilized life will rapidly follow the change of dress. The men do not so readily adopt the custom of the whites, but all to whom coats were given wear them, and appear to be proud of them. Many of the Indians are in the habit of making coats of their blankets. Were they furnished with the right kind of coats they would be of daily use, and would soon take the place of the blanket; pants would follow, of course, and the revolution in dress be complete. To insure the purchase of such kind of goods, particularly in calico and linseys, as would be most pleasing to the Indian, they should be purchased in open market. The traders pay less for goods and generally get a better article than is furnished the Indians by the contract system.

About a year since, as an inducement to the Indians to refrain from their wandering life, I promised to all who would build themselves houses and live in them, that I would give them cooking-stoves; several families have embraced my offer, and have very comfortable houses. I believe it my duty, as an agent of the Government, to embrace every opportunity and offer all reasonable inducements to these untutored creatures to advance them in civilization, to give up their wandering habits, settle permanently somewhere, adopt the custom and habits of some of their white neighbors, and to cultivate the soil.

Very many of the goods paid to the Indians at the late payment were in a damaged condition. Upon investigation I became satisfied that the goods were damaged before they reached St. Paul. As the business is conducted I am expected to receive or receipt for the goods at St. Paul, 150 miles distant from my residence, the agency. An agent can not always be present (I never have been) when the goods are landed at St. Paul. Again: when landed the outside of the boxes, bales, &c., may look in good order, when the fact is, as in this case, they had been soaked; the outside dry, but in the inside the goods

mildewed, rusty, spoiled, as was the case with some of the calico—we presumed it was calico, as the packing list called for calico, but the figures were all soaked out. I had no resource but to give it
209 to the Indians, who made no use of it. I was much pleased that the chief clerk of the Interior Department was present and saw the goods opened, that some plan may be adopted to prevent such damage in the future. Various contracts are made for the transportation of goods from the place of purchase to the place of delivery. I only know the contractor from St. Paul to the place of destination. Permit me to suggest to the department the propriety of having but one contractor for transportation to the place of distribution. If goods are damaged on the way the Government will know whom to call on to make good all damages that may occur.

Difficulties have arisen between the Mille Lac Indians and the lumbermen engaged in that country.

Several years since a company engaged in lumbering erected a dam across Rum River, the outlet of Mille Lac Lake; the land upon which this dam was built belonged to the Government. By the late treaty the Government, in part payment for the large tract of land sold by the Indians, gave them four fractional townships around the outlet of Mille Lacs (or thousand lakes). These townships include the dam and the country two miles beyond. At the mouth of the outlet are several small lakes, known as rice fields; from these fields the Indians gather from three to five thousand bushels of rice annually, worth from four to five dollars per bushel. The maintenance of this dam, by flooding these fields or raising the waters in these small lakes destroys from two-thirds to the whole of the crop. The Indians have frequently raised the gates and let the water off. I can not blame them; the dam is on their own land—land their right to which the Government is just as firmly bound to protect as it is to pay them their annuities—and the Indians mainly depend upon this crop for a subsistence. Some arrangement should be made by which the rights of the Indians to their own land should be respected. In connexion with this subject I will remark, that the various reservations guaranteed to the Indians by their late treaty should be surveyed and the boundaries marked. Emigration to this whole territory is very great; the whites are constantly trespassing upon these reservations, which is a fruitful source of difficulty.

Early in the summer I called your excellency's attention to the subject of breaking lands on the Mille Lac Reservation. From a personal inspection I judged that the work could not be done for less than $30 to $35 per acre, it being heavily timbered, but excellent land. I noticed an advertisement inviting proposals, since which time I have heard nothing. Those Indians are very anxious that the stipulations in their treaty should be carried out.

I regret very much that the Indians at their last council, after payment, requested the school to be discontinued and the money kept for next year's annuities. I regret this action on the part of the Indians, as I believe the Rev. J. Loyd Breck was doing more good to them in

the expenditure of the school money than can be done by the expenditure of the money in any other way. Mr. Breck is certainly doing the Indians more good than any man I ever knew or heard of that has been among them. The Pillagers desire that if a school is established among them that the Rev. J. Loyd Breck may have charge of it.

210 The Pillager and Lake Winnibigoshish Bands were much pleased at the quantity and variety of goods given them at their annuity payment. I think it a fortunate circumstance that the instructions to divide the payment was received too late for action, and all the goods and money paid to them at the same time. Previous to the return of the chiefs from Washington, last spring, some fiendish parties poisoned the minds of the Indians against the treaty, telling them that their lands had been sold for a song and perhaps three bits in money; so much confidence did this suspicious people place in the authors of this report that they broke into the store of George Bungo, a half-breed trader, and stripped it of its contents and threatened his life, killed the horse of another half-breed, giving as a reason that those parties were friendly to the treaty, and had assisted the chiefs from Leech Lake to Crow Wing on their way to Washington. After the return of the chiefs, and the provisions of the treaty had been explained to them, so suspicious are they, and prone to receive the counsels of the evil disposed, that they sought the lives of the chiefs; and, even after the goods had been received at the agency, not aware of the quantity which each would receive, they were loud in their demonstrations—so much so that I was obliged to send to Fort Ripley for a guard, fearing an outbreak. In the last instance they were instigated and encouraged by the counsels of one James Tanner, a half-breed, who manages to gull the good people of New York and Boston out of a livelihood, under pretense of being a Christian teacher; as soon as he was arrested and removed to the fort (he had previously been removed from the Indian country, Sault Ste. Marie), they became more quiet. When the goods were divided among them, the quantity was so much greater than they had any idea of, that they, to a man, gave up their opposition, expressed great regret at the course pursued, and promised good behavior for the future, and offered as an excuse that they had been influenced by bad men, not the least of whom was the man before named.

The Pillager and Lake Winnebigoshish Bands have made, by treaty with the Government, provision for the breaking of lands and the employment of laborers to assist them in its cultivation, consequently the presence of the agent is required among them. The Mississippi Indians have dispensed with all their employés, hence there is no necessity of the agent remaining at Crow Wing. I suggest, therefore, to the department that the agency dwelling be built at Leech Lake, 'tis there where the payments will be made to the Pillager and Lake Winnebigoshish Bands; 'tis there, too, where the storehouse, councilhouse, and office must be erected, hence the most

suitable place for an agency dwelling; 'tis, too, the most central reservation.

The buildings above mentioned should be built early in the coming spring, to be ready for the next payment. These buildings will, of necessity, in this far off country, be built of logs, which should be got out during the winter and hauled where required, as it can be done much cheaper then than in the summer; in the spring it will be almost impossible to procure them.

A mistake was made in the wording of the late treaty with regard to the reservation at Cass Lake. The Indians were promised
211 the land of their present gardens. The treaty reads east instead of west, which throws them on the opposite side of the lake. I suggest that the mistake be corrected. The Indians are much concerned at this mistake, as the reservation, as per treaty as it now stands, is a large swamp, not capable of cultivation or drainage.

At Otter Tail Lake there is a band of about three hundred Indians. No reservation was made for these Indians, or provision made for breaking land or employment of laborers. The chief of this band was not at Washington, perhaps that was the reason why his band was forgotten. A reservation is due them; and as the policy, as I have before remarked, of confining them to small reservations is promising so much good, I suggest that a reservation equal to three miles square be given them and provision made for breaking a small quantity of land, and the employment of one laborer for a short period.

I am happy to inform the department that less whiskey was brought into the country during the payment just made than at any previous one since I have been in the country, notwithstanding that there was double the number of Indians present. To this result the troops sent up, on my request, by Major Patten, commanding Fort Ripley, in a great measure contributed. On this, as on former occasions, Major Patten promptly responded to my request for aid, and has rendered me material assistance in the discharge of my duties as agent.

The only effectual means of preventing war parties between the various Indian tribes is to bring them under control of the Government by means of annuities. Hitherto the war parties among the Chippewas against the Sioux have been headed by the Pillagers; but since their treaty they have sent none out. There has been but one started, and it was composed of Red Lake Indians, and they returned without accomplishing anything. The recent treaties at LaPointe and Washington extinguished the Indian title to all the country between Lake Superior, Red River, and the British line, except the country claimed by the Red Lake and Bois Forte Indians. The Bois Fortes claim that a portion of their lands were ceded in both treaties; but neither the Chippewas of Mississippi or Pillager Bands recognize their right to participate in the annuities. Jealousies, bickerings, and war are likely to be the result. The lumberman has already found his way into their country.

Permit me to suggest that it would be an advantage to the Government to extinguish the Indian title to these lands. A treaty can nowhere be made as well or advantageous to both parties as at Washington, uncontrolled as the Indians would be by evil disposed men.

Respectfully, your obedient servant,

D. B. HERRIMAN,
Indian Agent.

His Excellency W. A. GORMAN,
Superintendent Indian Affairs,
St. Paul, Minnesota Territory.

212 DOCUMENT 9

[Letter April 26, 1856, from Major Day, 2d Infantry, commanding at Fort Ripley, to Commissioner Indian Affairs, with endorsement. Original in Indian Bureau.]

FORT RIPLEY, MIN. TER.,
26th April, 1856.

SIR: At the earnest solicitation of "Pug-o-nay-ghe-shick" (Hole in the Day) chief of Mississippi Band of Chippewa Indians, I have the honour to make the following statement with his request for a reply.

He states that at the consummation of the treaty of 1855 at Washington City, and in which he was the chief agent on the part of the Indians, he was most positively promised a certain amount of money (six thousand dollars) one or two thousand dollars of which would be remitted to Saint Paul where he would find it on his reaching that place from Washington—that he did not find it there, as promised, nor has he yet seen or heard a word about it—that this failure on the part of the agents of his "Great Father" has caused him much embarrassment by depriving him of the means of pacifying or reconciling to said treaty many dissatified spirits among his band and to which purpose he had intended its appropriation. That he has, in consequence, lost influence among his band and that he is now apprehensive of serious difficulties arising therefrom. That aside from any consequent trouble between them and the white people, he is much mortified to think that he should be treated so much "like a child," and he says "much rather would I be decapitated (making a significant gesture of throat cutting) than receive such treatment." That he had always heretofore believed that "the white man had but one tongue."

He desires most urgently to be informed, through me, whether or not the promise above referred to is to be redeemed. I would here add that I have reason to believe, from other sources, that his life has already been in jeopardy and threatened by his own
213 people since the making of the treaty referred to, and I do not doubt his own statement that he often passes a sleepless night—not from fear, for I believe he knows not such feeling—but

from the mortification of being accused of betraying or sacrificing the interests of his nation or band.

He also complains that under the third article of the treaty permitting a reserve of two thousand dollars from the $20,000 annuity, to be made for the specific purpose "as the chiefs may request," that sum was so devoted at the last annual payment for the purchase of seeds, cattle, &c., and, as yet, nothing has been realized by them and in consequence they have very poor prospect for the approaching planting season.

In regard to the first sum mentioned in this communication, whether as inducement for him to sanction the treaty or bonus money for his distribution at discretion, he asserts that he was anxious that it should be incorporated in the treaty, but that he was overruled and assured solemnly that it would be the same thing and just as safe by a verbal promise.

It may not be necessary to state that in the absence of D. B. Herriman from his agency his duties are devolved on me, and therefore I would request that your reply be addressed to the commanding officer of this post, as, by possibility, I may not myself be here at the date of its receipt.

Very respectfully your obt. servt.,

H. DAY,
Majr. 2" In., Comd'g Post.

Hon. G. W. MANYPENNY,
Comr. of Indn. Affairs, Dept. of the Interior,
Washington City, D. C.

214 (Endorsed:) Major H. Day, Fort Ripley, M. T., April 26, '56.

States the complaints made to him by "Pug-o-nay-ghe-shick" (Hole in the Day), chief of the Mississippi Band of Chippewa Indians, rel. to a certain sum of money, &c., promised him when the recent treaty with said Indians was made.

Rec'd June 18, '56.

(File.)

215 DOCUMENT 10

[Extract from Report of Agent Herriman to Superintendent Huebschmann, September 27, 1856; Senate Executive Document, 34th Cong., 3d sess., vol. 2, p. 599.]

Many of the Mississippi lands for the first time planted, tended, and would have raised good crops had it not been for the grasshoppers, which made their appearance on the 28th of July and literally swept the whole country. This is to be regretted this year more than any previous one, for it may discourage the new beginners and drive them back again to the chase. There is only about half the usual crop of rice, and, as a matter of course, the Chippewas have a hard winter before them.

216 DOCUMENT 11

[Extract from report of Superintendent Huebschmann to Commissioner Manypenny, October 15, 1856; Senate Executive Documents, 34th Cong., 3d sess., vol. 2, pp. 589, 590.]

The war with the Sioux and the use of ardent spirits have more than all other causes retarded the advancement of the Chippewas in civilization. Prosecutions under the territorial statute for selling liquor to the Indians have been without avail, and the agent has neglected to take the necessary steps to prosecute under the intercourse act, for the reason that he had been informed that it was not in force in that part of the country. Believing that there is no good reason for this construction, I have instructed him to prosecute under it, and we will at least try to obtain the decision of the court in relation to its being in force or not. Messrs. Breck and Bardwell have succeeded as well, or better, in their efforts to civilize the Chippewas than any other missionaries in the Indian country. They succeeded in inducing many of them to labor and to make permanent settlements; and from their good results already obtained in the short time it may be expected that, under more favorable circumstances hereafter, they will be enabled to extend their civilizing influences over all or most of the bands of the Chippewas of the Mississippi. In my opinion it is much to be regretted that these Indians could not have been induced to settle down in one or two reservations instead of so many. The distances are so great, and it takes so much time to travel from one location to the other, that it is almost impossible properly to superintend farming operations at the different settlements; at least, the means provided for in the treaty of February 22, 1855, are not sufficient to carry on an extensive system of farming improvements, mills, schools, &c., at so many locations. The Chippewas are, generally, very well disposed to adopt civilized habits, but like all other Indians need constant advice, encouragement, and aid.

217 12

[Extract from Report of Agent Herriman to Superintendent Cullen, September 15, 1857; Senate Executive Documents, 35th Cong., 1st sess., vol. 2, pp. 341, 342.]

SIR: It is a source of regret that I can not, in this my last annual report, give a more gratifying picture of the condition of the Indians within this agency. While a few have been advancing in the arts of civilization, the great body have been retrograding.

This state of things I attribute to various causes, but most prominent are—

1. The use of whiskey.
2. The treaty of 1855.
3. The immigration of whites into the country.
4. The errors of missionaries, supported by Government.

It is a matter of history that whiskey is, and has been since the advent of white men in this country, the "bane of the Indians," and that there is scarcely a tribe or an individual Indian but that would at times give all his possessions for whiskey. When under its influences he knows not what he does. All of the depredations committed by them upon the whites; all murders among themselves; or personal injuries inflicted by them upon each other, are perpetrated while under the influence of that destructive bane, or to revenge acts done while laboring under intoxication. These facts are so well known it is useless for me to enlarge upon them.

How to prevent its use and introduction into the Indian country is a question what has for years puzzled older and wiser heads than mine. Congress, State, and Territorial legislatures have time and again enacted penal laws, but the evil increases.

One great difficulty is in enforcing the laws against selling whiskey to Indians. I have frequently caused persons to be arrested for violating the laws in this respect, but have never yet been able to procure conviction in a single instance; notwithstanding positive proof, juries always disagreed.

218 This evil increased the past year, and the troops at Fort Ripley having been removed, the whiskey-seller has had nothing to fear from that quarter. The Indian reservations are surrounded by ceded lands upon which all claim the right to settle, claiming the right also to keep stores, to sell such articles as they please, and to whom they please. At Crow Wing, the Mississippi River is the boundary line on the east, and the Crow Wing River on the south. At Crow Wing there are no less than five whiskey shops, and are only five miles from this agency. Five whiskey shops and not half a dozen habitations beside.

Your own inferences must give you the key as to how they are supported.

Notwithstanding this state of facts—1st, no troops at Fort Ripley to overawe; 2d, impossibility to convict on trial; 3d, scores of beings in the shape of men surrounding the Indian reservations, fearing neither God nor man, having no respect for law or civilization; caring for nothing but getting money, and entirely unscrupulous as to the means of obtaining it, I say, sir, notwithstanding these facts, men will wonder why the agent will let whiskey go into the Indian country, as has been heretofore reported, "without let or hindrance." The same men, being in the Indian country ostensibly, solely for the good of the "poor Indian," will pass an Indian with a five or ten gallon keg on his back, and not attempt to destroy it; knowing at the same time that he has as equal authority for so doing as the agent, and just as much money furnished for expenses of prosecutions.

Newspapers are filled with articles describing or giving a history of depredations (most of them false) committed here and there, and animadverting upon the inefficiency of agents in not preventing the introduction of whiskey into the Indian country, as if an agent,

unaided and alone, could be at a half dozen reservations, from thirty to one hundred miles apart, at the same time. Again, the treaty of 1855 did away with all the employees. Funds formerly appropriated for the pay of laborers, carpenters, farmers, &c., are now consolidated, and paid to the Indians in specie; whereas, before, the agent had a force to assist him in finding, destroying, and preventing the introduction of whiskey; now he is entirely alone.

* * * * * * *

219 Again, the treaty of 1855 has confined the Indians to small reservations, leaving the land all around them subject to claimants; forcing them to depend upon agricultural pursuits for a livelihood before they were prepared, and before the ground had been broken. Naturally a hunter, he still follows the chase; wearied and hungry, he finds a settler's cabin, a surveyor's tent, or lumberman's camp; applies for provisions, is, perhaps, misunderstood, or finds it unguarded, takes what he wants, bad feelings are engendered, and the whole tribe denounced for the act of a single Indian.

The class of white men with whom the Indian comes in contact is another source of evil. A class of men unmarried, paying no attention to the conventionalities of civilized life, having but little regard for morality, spending most of the time gambling and drinking with the Indians, coming into the Indian country expressly for a "spree." Such examples have a more pernicious influence than is generally supposed.

220 DOCUMENT 13

[Extract from Report of Superintendent Cullen to Commissioner Mix, September 28, 1858; Senate Executive Documents, 35th Cong., 2d Sess., vol. 1, pt. 1, p. 391.]

The Chippewas of the Mississippi, under the immediate direction of their agent, J. W. Lynde, who entered upon the discharge of the duties of his agency in July last, embrace the Chippewas of the Mississippi, who were parties to treaties between the United States and the Chippewa Indians previous to the treaty of 1855, and under the latter treaty were included with them those Indians residing about Leech, Cass, and Winnipeg Lakes, that form the headwaters of the Mississippi River. The reserves set apart under the treaty of February 22, 1855, are scattered, and each band is isolated, rendering it difficult for the agent to keep such a watchful care over them as to guard them and prevent the traffic in intoxicating liquors, which has been for so long a time such a prolific source of complaint, and which has evaded all efforts of the Government officers to prevent; should the Indians be concentrated, the numbers of their reserves be reduced, and thereby enable the agent to reside where he can exercise diligence in enforcing the penalties of the law, this traffic can thereby be circumscribed. On the occasion of last fall payment I

made an example of one of those persons who supply the Indians with liquor during payment, by personally placing him in irons and taking him to be confined at Fort Ripley. This, for a time, succeeded in checking the sale to Indians, but the evil is so deeply rooted, and the persons engaged in it are so unscrupulous, that there are no means so base that they will not resort to to accomplish their nefarious designs. Agent Lynde has promptly acted on this subject, and I trust successfully, so far as he can reach them by the power vested in him; but the present system of widely separated and distinct reserves for Indians affords so many avenues to introduce liquor that it discourages the hope of a termination to the evil until these Indians are brought into such a limited scope of country that they can be continually under the protecting care of the agent.

221 DOCUMENT 14

[Extract from Report of Agent Lynde to Superintendent Cullen, September 15, 1859; Senate Executive Documents, 36th Cong., 1st sess., vol. 1, No. 2, pt. 1, p. 439.]

In this connection, I would renew the recommendation that the whole tribe of the Chippewas of the Mississippi be concentrated upon one reservation. The system of separating and scattering the various bands upon reservations at great distances apart is by no means advantageous to the Indians or the Government. By a concentration the influence of the agent would be greatly increased; and the Indians, brought continually under his control, could be more effectually restrained from roaming and wandering from the reservations, and only by this means can the traffic in liquor be restrained. The agricultural and other funds, if concentrated upon one point, could be expended more successfully for their benefit. I would advise that an arrangement be concluded for selling all the reservations except that at Leech Lake, and the concentration of all the bands, and the establishment of the agency at that point. There are lands that will not be required for settlement for a long period of time that could be set apart to increase that reservation. This is an important matter to the Indians and one that I would urge upon the consideration of the department.

222 DOCUMENT 15

[Extracts from Report of Agent Lynde to Superintendent Cullen, September 15, 1860; Senate Executive Documents, 36th Cong., 2d sess., vol. 1, pp, 273, 274.]

I regret, however, that I can not as favorably report the extinction of another source of destruction which has been the bane of the uncivilized as well as of the civilized portions of the human race—I refer to the liquor traffic, which has been silently but surely pursuing its demoralizing course, resorting to all the arts of deception

which are in consonance with its villainous and diabolical character to elude the efforts of every officer, whether military or civil, to arrest its career or punish its perpetrators. Not only in the deep recesses of the forest does it have its hidden receptacles, whence its deluded victims bear away upon their own backs the concocted poison which they carry to their homes, to there drink and die, but openly, in the towns and villages neighboring the Indian reservations, the traffic is pursued.

The law has been attempted to be enforced, but the decision of the courts has been that there is no power in the officers of the Government to interfere with the rights of a white man to sell upon the ceded lands; and although the Indians were careful to insert a clause in the treaty ceding their lands that the laws made for their protection before the disposal of their country should remain in force thereafter, yet the decisions of the courts have been that such a clause was unavailing. Under this condition of things it is very difficult to suggets a practical remedy. The separated and scattered reservations would require more than a sleepless Argus to watch and guard them, particularly when the Indians themselves become their own destroyers.

I have had many and long councils with them on this subject and have represented the evils and natural results which must ensue if this practice is indulged in, and have, in consultation with their chiefs, suggested a system of laws, with penalties attached, to be adopted by themselves, and propose, at the time of the grand council at the ensuing payment, to submit a simple code of rules which they can understand and, if adopted, be enforced by themselves at their different reservations.

223 Were there only one reservation, this could readily be done; but the scattered and great number of reserves for these Indians create very great and almost insuperable objections to the practical and sure operation of the system proposed. However, humanity dictates that every expedient tending toward the abatement of this evil should be tried until the Indians are educated to the full knowledge that their only safeguard against it exists in themselves.

* * * * * * *

The hunting grounds no longer furnish a livelihood, and the furs which have hitherto been so great a source of revenue are becoming scarce. The feud between the Chippewas and Sioux restrains their seeking new hunting grounds, so that the improvement of their reservations must be their main reliance and agriculture their only sure source of support. Necessity will accomplish what would otherwise be a hopeless task by teaching these Indians that an agricultural life is attended with permanent advantages and will alone save them from suffering and distress.

224 DOCUMENT 16

[Extract from report of Agent Walker to Superintendent Thompson, September 25, 1861; Senate Executive Documents, 37th Cong., 2d sess., vol. 1, No. 1, pt, 1, pp. 692, 693.]

Of the Mississippi Bands I am compelled to state that they have no farms under cultivation, and although there was a small amount of money turned over to me by my predecessor for the purpose of clearing and breaking on the reservations of these Indians, it is entirely inadequate to carry out the stipulations of the treaty on that subject or to benefit them to any general extent or in any permanent manner.

I have also to report that there are no schools established for their benefit, the great need of which is very apparent, and often in their councils they speak of this something, which they much deplore. But the most formidable obstacle to be encountered in introducing these or any improvements for their elevation is that their reservations are disconnected and some of them a great distance from the agency, which render it impossible for the agent to have an immediate supervision of such matters, this being necessary in order to make them of any great and permanent advantage to the Indians. I would therefore suggest the propriety of removing these bands to one reservation. This would give the agent a more immediate control over their conduct and would give him a greater power in suppressing the traffic in ardent spirits, which is carried on entirely off the reservations and sold to the Indians by a class of corrupt and lawless men, who hover around the reservations ready for any act, however monstrous, cruel, or unlawful.

225 DOCUMENT 17

[Extract from Report of Superintendent Thompson to Commissioner Dole, October 30, 1861; Senate Executive Documents, 37th Cong., 2d sess., vol. 1, No. 1, pt. 1, pp. 680, 681.]

The Chippewas of the Mississippi, Pillager, and Lake Winnebigoshish Bands, too, are exposed to the damaging results of the whiskey traffic, but not to so great an extent as the Winnebagoes. They are not subject to so many temptations, and have less means to purchase. They are more docile and tractable than the Sioux or Winnebagoes; and had a small part of the money been expended for them, as has been for other tribes, they would have presented a picture of civilization second to no Indian tribe on the continent. They more readily assume the habiliments of civilized life than the others. They are poor, and have been obliged to depend more upon themselves than others with whom the Government has treaty stipulations.

226 DOCUMENT 18

[Report of Commissioner Dole on Indian outbreak of 1862, dated November 26, 1862. House Executive Document No. 1, 37th Cong., 3d secc., vol. 2, pp. 170–176.]

Agreed statement of pertinent facts set forth therein. In August, 1862, during the War of the Rebellion, occurred the great outbreak of the Sioux against the settlers, in which, as then reported, over a thousand whites were killed. It seemed for a time that the Chippewas, or portions of them, were about to join in the massacres. Chief Hole-in-the-Day assembled about three hundred warriors at Gull Lake and was ready to attack the settlers. The Commisisoner of Indian Affairs, William P. Dole, happened to be at St. Paul at the time, took charge of the situation, and assembled a force which finally overawed the Indians and they submitted. During the critical time the Mille Lac Band, by their chiefs, met the commissioner in council, agreed to maintain the peace, and faithfully kept their promise.

227 DOCUMENT 19

[Manuscript reports now in the files of the Indian Office, Department of the Interior, made contemporaneously, from February 25, 1863, to March 6, 1863, being longhand reports of the substance of the conferences had by the Commissioner of Indian Affairs, also one by the Secretary of the Interior, with the Chippewa Indians therein named, resulting in the treaty of March 11, 1863 (12 Stat. 1249). These manuscripts apparently are not complete, as other conferences not evidenced by such reports evidently took place. These reports here shown are all that are now to be found in the Indian Office files. Four interviews.]

First Interview

[Interview between Commissioner Dole and Indians of the Chippewa Tribe on the Mississippi, from the region of Red Lake,* and Winnebago chiefs, February 25, 1863.]

COMR. I understand that you have called this morning to pay your respects to the commissioner, but that your visit to the city is for the purpose, if possible, of renewing your treaty with the Government, with a view to a better understanding between your Great Father, the President of the United States, the Government, and their red brethren. I can spare a little time, an hour, this morning to hear any of you that choose to speak to me, and then, if convenient for you, after you have rested, I have made an arrangement to meet with you at the office of the Secretary of the Interior at seven o'clock this evening.

* Evidently a mistake of the reporter. The Red Lake Indians were not parties to this treaty and were not represented at these interviews. They made a separate treaty in the following October. See 13 Stat. 667.

SHO-BOS-CUM. I get up to shake hands with the commissioner, and through you to shake hands with all the whites that are here present. When I look at your face I remember that you are the commissioner who was with us during the Indian trouble last summer. I get up to shake hands with you once more, that same hand you extended to me last summer, and to assure you that my heart and hand that I extend to you are the same as they were then. We have left our country and asked permission to come here for the purpose of paying you a visit. The agent that was appointed our father could not make us understand what he wanted us to understand in regard to his views of the Government, and he could not understand us, so we asked permission to come here where we could be understood.
228 We were afraid that you would not grant us permission to come down. We started from the agency immediately after the negotiations. We arrived in St. Paul and made known our wants, and when we heard that we were allowed to come down and arrange our matters here with the rulers we were very much gratified. When we made up our minds to come we were willing to sacrifice anything, being coupled with that tribe that committed so many atrocious crimes; we thought that it was unjust to be coupled with them, and we knew that you knew our feelings, because you were there present and knew what transpired last summer. We shook hands with you there and now come down to shake hands with you once more. That is all I have to say at present; when we come to talk about business I will talk more freely. We want to see that spirit of leniency which you showed to us while you were with us last summer.

COMR. I wish to say to the chief, that my heart and hand are where they were when I met him last summer at Fort Ripley. I sent for him during the Indian trouble. He and his chiefs, instead of entering with those who committed raids, thefts, and armed themselves against the white people, promised to keep the peace. He has done so; I am the friend and the friend of his people and will stand by them so long as I hold office. I, perhaps, ought to say a word now to the chiefs of the other bands, or the other portion of the Mississippi Band. I see that Buffalo is here. During my stay in their country I understood that they were the friends of the white man, but they (He & Big Dog) had not the power to render me the assistance that I received from the chief who just spoke. I want to say now that these chiefs that I found at Gull Lake armed against the Government, that I am glad to see them here. I am
229 sure they would not come here now if they were not good friends of the Government. I hope before you leave here I shall be able to give you my hand, and the hand of the Government, and that we shall part in peace, never to have any further difficulty between the Chippewas and the white man.

KAW-BE MAN (Winnebago chief). The Chippewas are surrounded now with great difficulties not only by the whites in their section but the whites in every section. We want our father, the commis-

sioner, to understand that it is a matter of life and death to us, our visit here. I know the feeling of the people in the State of Minnesota is intense against us, and for the purpose of relieving ourselves from any wrong that may be imputed to us is the cause of our visit here also.

230 Second Interview

Interview between Hon. J. P. Usher, Secretary of the Interior, and Chippewa Indians on the evening of February 25, 1863.

Secretary USHER. My brothers, I am very glad to see you here. I hope you have had a pleasant journey and that you are comfortable since you have got here to this city. I wish you to stay here until you have seen your Great Father, the President, until you have seen the Capitol, our large public buildings, and the power and wealth that your Great Father controls. You have come a great ways to see your Great Father, through a very extensive country, and you have seen a great many people and a great many cities on your way. And yet you have but seen a little part. You will not be able to see a very large part of the wealth and power which your Great Father possesses. We have so many cities and so many people that even our wisest and most active men have not seen them.

But I shall talk to you no more of that. I know you have come here upon business and you wish to attend to it like men. When your Great Father sent me to see you last December it was because he had a tender regard for you and was anxious that everything should be done that could be done for your welfare and for your good. Your Great Father did not wish to have you engage in any quarrels or in any difficulties with anybody, and that was one reason why he sent me to you, so as to keep you out of trouble; he wishes you to be at peace with each other. He will be very glad to see you, and particularly to see you so well dressed, like white men. He wants you to be like white men. In order that you may be like white men he finds it necessary and important that you should be nearer together, that you should be located together so that one or two physicians may always meet you, and that your mechanics,
231 your blacksmiths, your carpenters, and school-teachers may be so situated that you can have the benefit of those whom you pay to work for you. He has heard all about the Millacs and the Sandy Lakes—that they did nothing that was ugly or bad to his commissioner when he sent him out to Leech Lake, and he is very glad of that. He believes that all the Chippewas are very sorry for the difficulty they got into last summer, and thinks they want to live together peacefully and happily, and to have no difficulty with the whites. The Chippewas are not increasing in numbers. You are not becoming more numerous, but rather diminishing; and it would be a great scandal, and very wrong for you to quarrel among yourselves. You should be united and try to do

the best for each other. When I was up at the agency last December I prepared a treaty for you which I thought you ought to make, and which I thought your Great Father ought to and would approve; and it was left to be executed to the Chippewas who were at the payment at Leech Lake and Gull Lake. It was explained to them and I understood they were all willing to execute it; but the Indians from Millac and Sandy Lake were not there and we could not execute it. Now I would like to know if this treaty has been explained to you all. I will explain somewhat this treaty to the Millacs and the Sandy Lakes.

We expected at the time that the Millacs would be reluctant to agree to this treaty, because they had a good home where they were and were peaceable and had done no harm. Your Great Father has no complaint to make against you. You are good Chippewas and good men. But what we say about it we think is for their good. We have heard, and believe it is true, that there is danger of their rice being cut off by damming the river, or the flood; there is no security of their having rice there year after year, owing to
232 the whites going up there for lumber. We know that is not fair to you; yet your Great Father can not always help that. It will always make trouble, and the trouble will be increased from this time on, because the Sioux (not the Leech Lake Indians, who did not do much harm) were so wicked and exasperated the whites so that they hardly know how to distinguish between one and the other, and they will be in danger down there.

Your agent can not live with you there. You can have but one agent for the Chippewas of the Mississippi, and when you are scattered all about the agent could not get to you in a short time. Before he could reach you you might all be at war. We want you to get all together, so that the agent can go about and see you every week, learn you how to work, attend to building houses; show you how to till the ground; that the carpenters and mechanics may be with you; that you may get along like white men and be happy, which you can not do when you live so far apart. We think, the Great Father thinks, that if you will go up to the place designated—up to Leech Lake (that seemed to me to be the best place, from all that I could hear when I was there, although there may be a better place—but if you can go where you will all be together so that you can have the advantage of these things I have told you about) it will please him to hear that you will act reasonably and sensibly about it. I inquired while I was there to see if there were plenty of rice in that region of the country—so there would be no diminution of that, and good fishing. I think, from all I could hear, that it was the best place. You would have all of Leech Lake, and Winnebagoes and the whites would not disturb you there. You could all live there happily together.

It was not the intention to wrong or take anything from you to make you as good homes up there as those you left—and, indeed, better because when you are all together you can so much more enjoy

your benefits. If this paper was not made right in this re-
233 spect, it is our purpose to make it right; not to wrong you,
but to do justice. If you have farms there on Millac or on Sandy Lake, you would not be compelled to leave them this summer. We could sell them and lay out the money at their new homes so as to make them as good homes as they have where they are. I think, too, if you were up there you would have all that country towards Rainy Lake and Lake of the Woods, where the whites would scarcely ever get between you and that country. You would have that section to gather wild rice in, to fish in, to hunt in, and to catch game and furs. The white people going from St. Cloud and Crow Wing and Otter Tail and over to Red River in that direction, and also to Lake Superior, would go by you all the time, leaving you to their right or their left, and you would not be in the way of them or they in the way of you.

Now your Great Father would not say anything about this at this time—he would just leave it as it was—but this difficulty which the Sioux have got into, and this war which is going to be fought next summer, and the difficulty between the Leech Lake Indians and Hole-in-the-Day and his Band make it necessary that he should do something about it and give you some good advice now. He is very anxious you should get into no difficulty. We do not know what is going to happen this summer. He expects you will think about this like men, not like children; that you will think about all the difficulty which is surrounding you. He has more wisdom than you have; he knows what is best for you, better than you do. He will do you no harm, but do you good because you are his children. He wants you to take his advice and give him no trouble.

To you who have behaved so well, the Millacs and others, he would
try to oblige you in any way he could, allow you to select your
234 own places for farms, and try to make your houses and fix up
your gardens; so that you can live like white men. He does not want you to be destroyed, he wants you to live. He wants all the Chippewas to live together, so that he can take care of you; so that when he sends his great men among you they can see you all in one day. He wants you to be industrious, to learn to work as the white children do, to learn to make houses, such large houses as you have seen on the way as you came here; he wants your women to be as white women are; your children as white children are. He knows very well you can not be as his white children are unless you do as they do, and you must take his advice, and do as he says, else you can not be what he wants you to be.

Now you have come here to see him, and he is sure that you have come to take his advice. I think when you have heard what he has to say it will sink deep into your hearts, and you will believe it is good because you see it is well intended and for your good. You have come so late that we have but little time to do our business, and get it accomplished before the Senate adjourns—the great council you have seen to-day, who will examine all we shall do and say

whether it is right. We have but little time as they are going to disperse in a very few days, and we must think rapidly and act wisely. I want to know what you think of this treaty. I want you to express yourselves freely and say if you have any objections to it, any alterations or additions you want made. I want to counsel with you and find out what you want.

SHAW-BUS-CUM. The remarks that you have made about the paper that you have alluded to have been fairly and thoroughly explained to us before at the agency. Our father at the time that he extended the treaty to us of the Chippewa Agency, we thought was a little severe in his remarks. Whether it was done for the
235 purpose of intimidating us or not we do not know; but we know that there was a great many things on that paper that did not meet our views. We will not discuss the subject any further this evening, on account of the arrival of the Millac chief tonight. They were not present at the time of the negotiations of the agency and if we say or do anything here in their presence they will be totally ignorant of what we are talking about. Leave them with us for a little time so that we can get them to understand the provisions and conditions of that paper, and we shall be very much obliged to you. It would be better for us to retire and wait until another day, then we can enter into business and explain ourselves very freely. It is true the time is very short, but we think one night will not make much difference. We want to go into a little council among ourselves.

SECRETARY. In ordinary times I would not ask you to be in such a hurry—they might have as many days as they wanted. I want you to get rested and go to business just as soon as you can or your journey will be lost.

MON OMIN A-GO-SHEE. Father, I have a few words to say to you. I am very glad to say I have followed the advice you gave us last fall up to the present time. That paper you have been talking about, to our brothers, that you wish to remove to our section of the country interests them more than us. When we heard that paper read there were some sections I don't know whether they were there or not, they said if we did not touch the pen and put our names to the paper we should never receive annuities because we would not be under the protection of the Government. I have not much to say except that we are very glad you have given us permission to come here and very thankful to our superintendent, who has brought us here.
236 Everything that he could do for our comfort on our way here was done. After you have come to an understanding with our fellow Chippewas, we shall have a word to say, although we are not as deeply interested as they are in the paper.

237 **Third Interview**

Interview of the Secretary of the Interior and the Commissioner of Indian Affairs, at the Department of the Interior, with chiefs representing the Chippewa Bands of Indians of the Mississippi River, on the 27th of February, 1863

SECRETARY. My brothers, I am glad to meet you again to-day, and hope that since our last interview your councils have been governed by wisdom. As I gave you the counsel and advice which I deemed necessary at our last interview I have nothing more to communicate but expect to hear from you. After the time for deliberation which you have had I am sure that the speaker whom you have appointed to declare your determination will be able to fully and clearly express your views and I shall be glad to hear him.

SHAW-BUS-CUM. I shake hands with my father the Secretary of the Interior, and the Commissioner, my father, of Indian Affairs, and through them I shake hands with all the whites present. We were told certain things at the agency that induced us to ask permission from the Government to come down here and pay a visit. The words that were spoken by our father, the agent at the Chippewa agency, the man that was sent by you to take charge of the Indians at that agency, rather spoke words of fear, that we might fear hereafter. Intimidation appears to have been his main object. It was a question of policy with us whether it would be proper for us to come to St. Paul and demand of the superintendent the privilege to come down here and pay you a visit. After we asked it we met in open council and made our wants known to him for certain reasons which shall hereafter be explained to you. We thought we would take a step further towards civilization where the rulers of the Government were, and that we could make arrangements that would be satisfactory hereafter. We did not want to start from our reservations, after being notified that it was essential for
238 us to remain on our reservations; we had to have permission from the agent before leaving our reservations. We went in a body and asked that permission. He never said a word. After that we addressed to him a letter and sent it to him by one of our chiefs. That letter is answered, sir. It was impossible for him to grant permission for us to go down to St. Paul and visit the superintendent. When we saw that we could not get permission from our agent we made up our minds to hire teams for ourselves to go to St. Paul and ask permission from the superintendent to come down there. Knowing that we were undeservedly classed with the Sioux—which was very degrading to us—and that the whites of Minnesota were not kindly disposed to us on that account we felt it was our duty to come here where redress could be found. We started out for the purpose of showing the Government that we had friendly feelings, not only for the State that we reside in. We are told that we ought not to blush for any acts committed by a portion of our tribe. We came down according to the request of the Commissioner of Indian Affairs. We have the same good feeling

toward the whites as we had last summer. From the time we left home we have been very kindly treated by the whites all through the States of Minnesota and Wisconsin until we arrived at Chicago. On our way to this place we have been treated by the whites as friends. We have had every care taken of us by our superintendent; he has been pleased to grant every favor for us along the road. I have spoken the thoughts of friendship that reign in our hearts. There are two men we should have been very much pleased to have seen here, and they are the two Senators from Minensota. They know our wants. They know the position the Indians occupy in that State.

SECRETARY. They are detained by their official duties in the
239 Great Council, in the Senate, and it would be inconvenient for them to come at this time.

SHAW-BUS-CUM. The Senators from Minnesota know the wants of the people, and I know our wants, and we think that it would be nothing but an act of courtesy to invite them here, and to hear what we have to say so they could tell their constituents at home that the stories about us have been exaggerated, and that we have been blamed on account of the late raid of the Sioux, which we had no hand in.

SECRETARY. The superintendent says they have been invited, but they do not come because their business is elsewhere. I suppose you have something to say about the treaty. We have no complaint to make of you for anything you have done. We do not ask you for any apologies. We want you to attend to business and to make a new bargain—one that will be the best for you. You know there is very little time to do it in. I thought you came here to talk about that.

Commissioner DOLE. It is impossible for us to attend to the business of the chiefs unless they tell us what they want done. They have had 24 hours to consider. I understand they have objections to some portions of the treaty. If they will make them known we will change the writing.

SHAW-BUS-CUM. I understand very well the time is short and that you want to hear our objections. When we left our section of country we thought we had picked out the best interpreters we had, but we have a complaint to enter against them. We have thought that they have not moral courage enough. We are afraid that whenever we extend views that will not meet yours they will not say them to you. At the time the negotiations were pending at the Chippewa agency all the chiefs that are here were present, with the exception of three, the last delegation that came from Millac. The treaty was given to us and we understood it fully. It was interpreted
240 not only once but day after day until we understood the whole purport of the treaty. There were a great many things that we did not like in the treaty, and for that purpose we are here to-day. We are willing to acquiesce with the views of the Government. They call us their friends and we call the Government our father. They have treated us as such heretofore. We have been under the care of our Great Father ever since we were born. At the present time we

are in a situation that is deplorable, not only on account of our women and children but on account of all the persons that are residing amongst us at the homes we reside in. We are coupled with guilty parties. We are very sorry to leave our present homes. I think we can live at peace all the time with our brothers. The proposed country you intend to remove us to you have been very much misinformed about. We do not think that number of Indians could subsist there, even with the utmost exertions in agricultural pursuits, for two years, because the land will not allow of it. We are very well acquainted with that country. There is hardly one Indian of our tribe but what has been over it. I know that it is a country of starvation. It is nothing but sand barrens and swamps. There is a little strip along the lakes that may do for a few families, but what is that for the subsistence of all these? I do not know where is the best place to remove us to, but the place you propose I candidly say it is a place of starvation. We always like to adhere to the wishes of the Government, but in adhering to the wishes of the Government we always like to know that we shall have a subsistence on certain portions of land where they intend to remove us to. At the place you propose you can not cultivate corn enough to winter a squirrel during the winter, let alone feed several bands of Indians.

You know my objections now to removing there.

241 SECRETARY. This place was represented by some of the Chippewas and by the traders as a good place and a suitable place for you. I certainly should not have proposed it unless it had been so represented. It was represented to me that there was as much good land about these lakes that did not belong to the Pillagers, as you had at Millac and that by your living altogether we could do much better for you than when you are separated. That is the reason we want to put you together, and not to put you where you will starve. Now the Poughkagemies, Sandy Lakes, Rice Lakes, and Rabbit Lakes are scattered about so that we can not send a physician and blacksmith to them all. We have not got money enough to do that. We want you to get together. You all might go down to Millac but you will be in the way of the whites there, or they will be in your way. That is the trouble. If there were land enough in the reservations at Millac so that the Poughkagemies and the rest could go and live with you then we could make you farms and houses, and could appoint you a blacksmith and a doctor, or some of the others might remain where they are, so that you would only be in two places.

NEB-A-WASH (of the Pillagers). I hope that our father will listen to what I have to say relative to the section of the country where we reside. We are very glad to have the privilege of coming here to visit you, and glad to see you show a good disposition towards us. A portion of our tribe was included in the late raid last summer. The punishment that was inflicted on our bands pecuniarily was very heavily felt. The poverty that is existing in our band can not be told—nothing but eye witnesses can tell you how we are suffering.

That is right. We have nothing to complain about that. Our
242 father, we speak to you with a great deal of feeling when we look back to the country that we have left to come up to visit you and know the want that our families are in, and think it becomes us to talk as men, as you told us the other day, to explain our wants freely and frankly. We know the section where you wish to remove our fellow Chippewas. It is not a country where we can live all together. We picked out the best of it when we got our reservations. They hardly gave us enough for our subsistence. No rice fields are there. I am very sorry to say that whoever gave you the information, whether he is an Indian, or whether he is a trader, an account of the land in our section of the country and the abundance of rice that grows on our rice fields that he is very much mistaken. He must have done it from a matter of interest. I know that there is a great many living amongst us that will sacrifice not only the lives of me, but of all the tribe, if they can only put something into their own pockets. Even where we are now we are afraid that most of our bands will starve before we get home. You can see the way it is. I am speaking to you the truth leaving it to all the chiefs that are here. I am considered a good hunter in our section of the country. You told us that we would have from the section where you propose to remove us to the northwest and west to hunt in. I have only killed one deer in that section in ten years. So far as hunting is concerned there is nothing there to hunt for. Wherever there is a rise in the water our rice fields are destroyed and we are left without any provision at all to live upon. I speak knowingly and truthfully of the section you propose to remove us to.

COBMUBBI. The person you met in your travels misinformed you as to our section of the country. At Winnepagoe there is not rice enough even for our bands. The sugar trees are scarce. Should there be 3 or 4 more camps more than there are now we should not know where to place them in sugar camps. When we came
243 down to see our Great Father in 1855 we knew enough to reserve the best portion of our country. We knew where it was fruitful and fertile, we knew where the sugar bushes lay and where the rice fields were, we reserved them to ourselves, and the Government was pleased to acquiesce in our request. There is no place around us where any other bands can live. These are the facts as they are.

SECRETARY. Do you know of any place where they could be all got together? Our chief desire is to locate them so that the agent can be with them.

SHAW-BUS-CUM. The Mississippi Bands could be concentrated at Millac. There would be sufficient land for all the Mississippi to be concentrated there, provided the reservations extended around the lake.

SECRETARY. Who are the Mississippi Bands?

INTERPRETER. The Gull Lake Bands, the Rabbit Lake Bands, the Sandy Lake Band, the Poughkagemies, the Rice Lake Bands, and the Millacs.

SECRETARY. Are there any white settlers east of the Millac?

SHAW-BUS-CUM. There is not a white man settled thereon. There were some white men settled upon it, but they abandoned it. They stayed there about a year, but they evacuated the premises. There have been none since on the east and north side of the lake.

SECRETARY. Did they go on account of fear of the Indians?

SHAW-BUS-CUM. It is about six or seven years since they have left.

SECRETARY. I want you to understand now that I shall be a party to no arrangement that will starve you. I want you to keep
244 together for the reason that we can take care of you. Your sugar camps will not last many years. The trees will die from cutting so much. You must try to get a living some other way. If you are wise you will be thinking about that now.

SHAW-BUS-CUM. That is very true.

SECRETARY. The white people who build the large houses you have seen, and have cattle and wagons and so much property, get their living by working the soil—none of them live by hunting. You say all the Mississippi Indians could live around Millac; what do the Sandy Lake, Gull Lake, and Poughkagemies say?

SHAW-BUS-CUM. They are all here and can talk for themselves.

CROSS IN THE SKY. All I will have to do will be to tumble over in my bed and roll into the middle of them—I am so near them.

SANDY LAKE CHIEF. I want to state facts to you, although I am not a head chief. When I was about to start from Sandy Lake we called a smoking party. The chief of Sandy Lake told me to act in concert with Shawbuscum; I am chief of the Rice Lake Band. I have only 10 wigwams under my control. Those 10 wigwams shall remove to Millac. I am very much pleased to say that the promises made by the commissioner to us last summer were carried out. During the rail of the Chippewas he told us to remain quiet and go back to our reservations and we should have the payment at Millac. That promise was faithfully fulfilled, and we are very much obliged to him for that. All the persons that represented the different reservations there at Millac had an understanding at the time that should the commissioner wish them to remove there or remain at Millac they should remain. That idea is not changed now. We are all willing to remove to that place and make it our home.

245 Commissioner DOLE. I want to say a word to these chiefs. The object that the Secretary has laid before them of getting them together is only one of the great objects that we have in view. There is another great object, and that is where shall we place these chiefs far enough away from the white settlements to prevent them getting into difficulty with them again. We want them distinctly to understand that only have these chiefs and their people to agree in relation to a location, but that we have to satisfy the people of Minnesota—so that they will not take the law into their own hands and make war upon these people. Now, while it may be true, and it probably is true, that there is sufficient good land about Millac for the whole of the Mississippi Bands, yet it is known to

these chiefs that the land is sold upon the adjoining lake to the Government, that it has been surveyed for settlement, and the question arises whether we can take that land which has been sold to the Government and put into market and get it for the Indians, allowing them to move there from Poughkagemie and Sandy Lake. Let us meet this question fairly in the face. The remark of Shawbuscum was a good one, that it was better to have the Senators and Representatives of Minnesota here in these councils. The further we progress in these councils the more I am convinced of the necessity of doing that thing, because when they go home to their people they will be called upon to know why it is we have not removed these people from their midst or from their border. I have not forgotten the councils that I held with the chiefs here from Millac. I have not forgotten all my promises to them, but they remember that the question of their removal was not thought of at that time, and therefore I made no promises to them on that subject. I sent
246 for them when the country there was in great difficulty. There was a question in the minds of the whites there whether they were not joining with the other part of the Mississippi Band in the raid. They came and promised to keep the peace. They did so, and I am determined to be their friend in all their troubles; but I can not promise but what it may be necessary that the Government should use its power for their removal, and the only question now is, where can they go for a home where they can make a living? It may be barely possible that the people of Minnesota will consent to the Indians now living at Millac to remain there for the present. They may consent in the future for them to remain there forever if they will become good citizens. But I am sure that we will not give satisfaction to the people of Minnesota, however much it may be desired by the Indians, if we removed them all to Millac. My view of it is that at least the Gull Lake Indians will have to remove further north.

SUPERINTENDENT. I have come down here with you, have an interest in your welfare, and therefore I want to say a few words. You are aware of the difficulties that exist up in Minnesota and of the feeling of the people of Minnesota towards you. You are also aware of the fact that the country is filled with soldiers under the control of a different department from this, and you also know that there has been trouble there and these men have been sent to put them back on the reservations. I want you to look at the business before you seriously and not to make a proposition to stay where you know you can not stay without trouble.

247 Fourth Interview

Interview of William P. Dole, Commissioner of Indian Affairs, with Chippewa Indians from the Mississippi River, March 5, 1863

COMMISSIONER. Brothers, we must make good use of our time, as it is short. I have had several councils before with you on the sub-

ject of a treaty. You have been, no doubt, thinking on the subject and preparing your minds to tell me what your conclusions are in relation to it. Before you left home you must have all been well satisfied that you could not remain on your present reservations—that the difficulties that the Sioux have had with the whites—together with the difficulty that some of you have had with the settlement, render it necessary that you should have a new treaty with the Government. I appreciate fully the difficulties that you labor under. Your love for your homes, the anxiety that you have to remain at your present reserve, and I understand fully that some of you are deserving of the right from the Government to remain there; but we must look at the difficulties that have arisen between the whites and the tribe of Chippewas as a whole. We can not separate a part of you from the balance. I know of two, or perhaps three, of the bands of the Chippewas near Crow Wing, when we had our difficulties, that remained true friends of the white man. I remember well that you came to me while at Fort Ripley, gave me your hand, and continued our friends. In consequence of that, you can remain so near the white settlements. The whites, it seems, demand their removal on account of the recent difficulties. I am sure that we will be able to make no treaty by which we can separate the Millac Band and Poughkagemies and the Sandy Lake Bands from the Mississippi Band. I myself am inclined to do so. The Millac Band have earned this from the Government, that they
248 ought to be allowed to remain where they are, at least for the present. But I believe at the same time that it will be absolutely necessary for your reserve at Gull Lake Agency to be abandoned. I have not the least idea that you can remain there at peace with the white people; but I wish to say this, that if any part of your people are removed—if you have to leave any part of your reserve—that your Great Father, the President, will be inclined to pay you the full value of that reserve and to place you in as good or better condition in your new homes than you are now at this present location. So far as the Millac Reserve is concerned, in consequence of the Indians belonging to that band having behaved so nobly during our difficulties last fall, if it can be arranged that they might remain there a year or two until they themselves shall seek out a new home to their satisfaction, I shall be glad. They are aware, however, that the white people are already settling near them; that their lands are surveyed and put into market on one side of the lake; and with the bitter feeling that exists in Minnesota between the white man and the Indian, I doubt very much if it is not better for them to make haste in their removal. I want now to hear what the chiefs have to say. You are an intelligent people; you have advanced far in civilization; you understand well what I am talking about. I do not wish to confine you to the treaty that has been read before you. I wish you to say to me now what change you ask in that writing. If there is any part of that treaty drawn

up by the Secretary of the Interior that you do not like, speak frankly and freely—say wherein it displeases you. You can remain here but a few days longer. It is necessary to your people that you should return to them. Difficulties may arise in your absence which, if you were at home, you might have prevented, and it is
249 therefore necessary that you speak frankly and freely in relation to the treaty which you wish to make.

SHAW-BUS-CUM. It seems to me that I am not mistaken in looking at you. You are the person we met there at Fort Ripley last summer and our superintendent was there at the time, but there was one man there also who I do not see here. I think if I remember right he was the Secretary of our Great Father. I have not forgotten the words that were spoken at the time we met in council. All those words were treasured by us. We heard them and they were very pleasant. We were glad to accept them and treasure them in our hearts, and also in our minds. We are very sorry to hear that there is one who has been the instigator of all the transactions of which we have to bear the blunt. He would be the proper one to listen to all the complaints made by the Government. We are very sorry, too, that we could not have the Senators here from our State, at this council. When we met you there at Fort Ripley the very same words that we were given to understand when we were in Washington heretofore; you made us understand, and the very same words. Whatever stipulations there has been made in the treaty heretofore made, we have it at heart all the time. There is not one stipulation but what we still adhere to. We know all the stipulations, and what has been promised to us. When we wake up in the morning we have nothing to think of but those stipulations, how can it be possible to abandon our reservations when we were told to seize every inch of the land with the exception of the land for the reserves. If it is not good enough for an Indian to live upon how can it be good enough for a white man to live on, where we are living now. We demand that we should be allowed to live on our reserves.

COMMISSIONER. I must answer a few words that the chief has spoken. I have not forgotten the council that we held at Fort Ripley. I have not forgotten the promises made there. But the chief who has spoken will remember well that the subject of the
250 removal of the Indians from their present reserve was not a subject of conversation or of council. When Hole-In-The-Day, in the wickedness of his heart, called the Chippewas to Gull Lake, that they might make war upon the white people, I sent to Millacs for this chief, and those under him to come to me at the fort. He came with some fifty of his chiefs and promised anew that they would keep the peace with the whites, and with the Great Father and their Government, and that they would not join in the raid against the settlement. And they kept their promises well. I promised on the part of the Government, that the Millac, the Sandy Lake, and the Poughkagemie bands of Indians should receive (d) their full annuities in goods and money, payable at their reserves, which

had never been done before, and that they should not be liable to the payment of damages committed by the balance of the tribe, and I kept my word in that respect. That is, I believe all the promises made on their side, other than the general promise that these Indians should keep good faith in their treaties with the Government of the United States, and I promising on the part of the Government that we would keep faith with them. That we still propose to do. With the Gull Lake band no council was held other than the one that was held at the point of the bayonet, armed on both sides—where bad faith was kept by taking prisoners on the council ground. With them we made no promises, and are under no obligations to them, as they have forfeited their rights under the treaty. But I wish to say that the Government has no revengeful spirit towards that tribe. Our object is to have peace and good will, and while we are willing to forgive their depredations, we at the same time ask them, for their own good, to remove from that reservation to the reserve sixty miles farther north, that they may be at a distance from the white
251 men they have had trouble with, and avoid further difficulty with them. I see Bad Boy here. I met him up at the Fort. His tribe had driven him from home. But I believe there are chiefs here who were against the Government. Here is Mr. Johnson, who they took prisoner at the time. I know not for what reason unless it was that he was an educated Indian and might be a friend of the whites. I do not mention these things to create bad faith but to show you that I fully understand the case and that although you were enemies to us then, you are friends now, and the treaty we wish to make is not that we wish to punish you, but you have had trouble with the whites, and you can not live at peace with them, and we now ask you to fix some terms by which you can remove from contact with them, and desire that you may live at peace. I, too, am anxious that the Senators and members of Congress from Minnesota should be at our councils, and they have been invited to be present at every one of them. I am more anxious they should be with us because of this difficulty with the Chippewa Indians and the people of Minnesota—more than it is between the Chippewa Indians and the Government of the United States. And when we adjourn this council we will adjourn to meet at (at) such a time when we can have them with us. The chief who was the most friendly to us in our difficulties is put forward here to make the speeches on all occasions for the whole tribe. Now, while I am very glad to hear that chief—he is a fine orator and possesses judgment and intelligence—I want to hear from that tribe who have had the trouble with the United States. I want to hear something they have to say.

SHAW-BUS-CUM. All that you have told us is very true. So far as I am concerned I am very tired of speaking for the rest of the bands, and I wish they would speak for themselves. Let the guilty culprits come forward and speak for themselves.

COMMISSIONER. I want the chief to understand that I am always glad to hear from him, but I want also to hear from the Indians.

252 BAD BOY. All the words that our father has uttered to-day are words of truth, but I would state this circumstance that the reserves he is touching upon to-day I still own. At the time we down there to negotiate the treaty with our Great Father the very same reserves that we laid aside we still hold. The promises that were made to us at that time were not the same as were made to us at the time we made the negotiations. I am sorry to say that their works have been spoiling everything that has been made in the country for some time past. Hole-in-the-Day is spoiling everything that has been done in our country. It was stated to us that we should enjoy the improvements where we ceded our lands. One of our chiefs is sick and we should like to have his views before we proceed further with any business.

COMMISSIONER. The chiefs will hold themselves in readiness for a council to-morrow morning at ten o'clock. It is very important they should act promptly in this matter.

BAD BOY. I want our father to understand that the reason I was seen at Fort Ripley was not the fear I had of the Chippewas, because I had no fear of them; but I thought I would show myself among the whites because they have been my support ever since I can remember. I was told at the time that if any Indians were compelled to remove it would not be those who remained true to the Government.

COMMISSIONER. I was glad to meet Bad Boy there and the fact that he was compelled to leave the Indians and come to the whites at the fort is the best proof that he was a friend of the white man, and so far as he was the friend of the Government we will not forget, but the fact that they had one or two in the band who remained true will not answer to insure the forgiveness of the whole.

253 DOCUMENT 20

[Letter March 11, 1863, from Indian Commissioner Dole to Acting Secretary of the Interior, submitting Treaty of 1863, with explanations, etc.]

DEPARTMENT OF THE INTERIOR,
OFFICE INDIAN AFFAIRS,
March 11, 1863.

OTTO, W. T., HON.,
Acting Secretary of the Interior.

SIR: I herewith submit a treaty entered into between the United States and the Pilleger, Lake Winnebigoshish, and Mississippi bands of Chippewa Indians by which the said Indians cede to the United States six reservations in central Minnesota with the improvements thereon.

In the year 1855 these reservations were assigned to the above named Indians by the United States as permanent homes to be held by them and their de[s]cendants forever. Since they have occupied

these reservations under said treaty large portions of their annuities have been expended in improving the same. They were beginning to realize some permanent benefit from these expenditures when the unfortunate and serious difficulties arose between the Sioux Indians and the whites which together with the difficulties that existed last fall with a portion of the "Chips" caused the whites upon the border to feel insecure so long as these Indians are permitted to remain in their midst. The chiefs who have ever been friendly to the Government being fully aware of the unsettled condition have after a full consultation with one in whom they and their entire people have ever placed most unlimited confidence acceded to the wish and advice of the department. The country assigned to them under the present treaty being far removed from the settlement and surrounded by lakes, marshes, and barrens, thus affording a barrier for all time to come between them and the white settlements, gives assurance that, by a faithful compliance with the stipulations of this treaty and the christianizing influence hereby invited the obligations of a great Government will not only be fulfilled but we may safely hope that the condition of this unfortunate tribe while henceforth rapidly improve both morally and physically.

Complaints have heretofore been made by various tribes that they have been wronged by agents of the Government. The board of visitors provided for in the treaty, whose sympathies are and ever have been with and for the red man, will it is believed forever eradicate all such cause of complaint. Another article provides that no person excepting those having families be employed, licensed, or permitted to reside within their reservation under the present
254 treaty. This it is hoped will have a tendency to elevate the morals of this tribe and induce the young to learn domestic economy and practice habits conducive to their future welfare. The red man while acknowledging his weakness and his inability to resist temptation tearfully calls upon his Great Father to place him beyond the reach and influence of the tempter.

In the treaty every safeguard having been thrown around him that suggested itself to the minds of the commissioners, it is believed that it only remains for the Government to faithfully perform the stipulations on its part in order to elevate this tribe to a condition which it has so long been desired that they should occupy by the Christian and the philanthropist. The cost of carrying out this treaty will be but small compared with the objects thereby hoped to be accomplished.

The expense of carrying out that portion of the treaty referring to the breaking of land, furnishing agricultural implements, etc., will be no additional cost to the Government, as it will be simply fulfilling the stipulations of former treaties not yet complied with on the part of the United States.

The small and limited annuities of said Indians under former treaties—which would, however, have been sufficient had they been permitted to remain upon their present reservations—are extended

for a period of ten years to enable them to make farms, purchase cattle and agricultural implements, and commence a new life.

No expenditure, excepting to carry out stipulations of former treaties and an insignificant amount in addition in order to place these Indians comfortably in their new homes and free them from all obligations to our citizens from whom they separate, will be required of the Government prior to the year 1875, and then only a small amount for a limited period.

In former treaties where Indians have ceded improved lands to the United States it has been customary to provide for the sale of said improvements for the benefit of the Indians, which in many cases has led to confusion, trouble, and dissatisfaction, to avoid which the Indians parties to this treaty have in ceding their reservations relinquished all improvements to the United States excepting one sawmill.

The allowance made to the Indians will greatly exceed the cost to them of the improvements they have made or have been made out of their annuity funds. It is earnestly hoped that this treaty will meet with your approval, for, if ratified, it will have a tendency to disconnect the Red River and Red Lake Indians from cooperating individually with the Sioux, as it will certainly relieve the people of Minnesota from any further fears from the Indians of the bands parties to this treaty.

255 In this connection I recommend that said treaty be laid before the President, with a view, if it meets with his approval, that it is submitted to the Senate for its constitutional action.

Very respectfully, your obt. servant,

WM. P. DOLE,
Commissioner.

256 DOCUMENT 21

Treaty of March 11, 1863, ratified March 13, 1863, with amendment; 12 Stat. 1294. Not reproduced in this record.

257 DOCUMENT 22

[Extract from Report of Indian Agent Morrill, October 1, 1864: House Executive Document No. 1, 38th Cong., 2d Sess., vol. 3, pp. 559, 560.]

SIR: This is my second annual report, transmitted for your information, as to the condition of the bands of Chippewas under my charge during the past year. Their material wants have been fully supplied, and their prospect as to subsistence and clothing the coming winter are good. Their physical condition, as will be seen by the physician's report sent herewith, has been better than usual, although not better than in the year terminating October 1, 1863. During the fall and winter they met with extraordinary success in the hunts, finding fur-bearing animals of every kind very abundant. As furs

were high, they were able to procure from their traders in exchange for them all supplies necessary for their comfort. In their spring hunts they were not so successful, but got enough for their moderate needs in that season. The value of the furs secured by them during the entire year is, as near as can be ascertained, forty thousand dollars.

In the spring they made a large crop of maple sugar, which is always a great advantage to them, as they can readily obtain with it any goods which they may require during the summer. They planted their usual gardens, amounting among the Pillagers and Winnebagoshish Indians to three hundred acres, among the Mississippi lands to two hundred acres, with assistance rendered by myself in ploughing and furnishing seed at an increased cost over former years, from scarcity and high price of labor and seeds. Owing to excessive dryness of the spring and early summer their supplies from this source will not be as large as usual, but the deficiency is more than made good by the very large rice crop which they have just gathered, and which they will garner for use in mid winter, when other food cannot be obtained. Fish, which have always been the chief reliance of this tribe for subsistence, have been more than ordinarily abundant; and to the end that their supply of these should not be stinted by insufficiency of nets in which to catch them, I have purchased and furnished to them a considerable quantity of net twine, in addition to their annuity supplies. This article is of greater profit to them than any other form of goods which they get, and I would therefore respectfully recommend that in the future a larger quantity be procured than has been the habit.

258 DOCUMENT 23

[Extract from Report of C. W. Thompson, Superintendent, October 1, 1864; House Executive Document No. 1, 38th Cong., 2d Sess., vol. 5, pp. 547, 548.]

CHIPPEWAS OF THE MISSISSIPPI

This tribe of Indians have been remarkably peaceable during the last year. I think they will not again engage in such depredations as marked their history in 1862. Their troubles of 1862 have made a division among them. The Mille Lac Band are particularly desirous of keeping away from the Crow Wing Agency. They say they cannot go there without getting into trouble with those Indians who were foremost in the outbreak of 1862, and then they are sure to be made drunk and robbed as they pass through the town of Crow Wing on their way home. It will be recollected that these Mille Lac Indians did not engage in the hostilities of 1862. On the contrary, they did much to induce the others to become peaceable. I think, therefore, we are under obligations to them for the influences they exerted, and their active cooperation with us in putting down the

attempted raid of Hole-in-the-Day and his followers. It is but due that they should receive their annuities at or near their own reservation.

The Chippewas of the Mississippi, as a tribe, are unsettled in feeling, growing out of the troubles as to what will be done with them. They sent a delegation of chiefs to Washington in the winter of 1862–63, who, entered into a treaty with the Government, ceding their lands. The Indians left Washington satisfied, but on their arrival home they learned that Congress had amended their treaty so that it was a question whether it could be carried out as they understood it. The ensuing winter, 1863–64, they sent another delegation to Washington. You, in connection with myself, made another treaty with them, varying somewhat from the one of the year before as to their future home or reservation. This treaty was not reached or ratified by the Senate; consequently still another doubt was created in the mind of the Indian, who cannot understand the press of business or any other cause for the delay. They clamor to know what is to be done with them. The whites, too, are equally anxious to get rid of them. By the terms of this treaty the Chippewas of the Mississippi are to be removed north and west of Leach Lake, to a country that will not probably be wanted by the whites for many years.

259 It is a good country for the Indians, and is the choice of their chief. It abounds in wild rice. The lakes have in them a plenty of fish. There are forests containing a large quantity of the hard maple, from which they make their sugar. It has also enough good prairie land for their farms.

They are to have agency buildings put up for them, and the reservation is so arranged that the agency building can be placed in a position to accommodate the Chippewas of the Mississippi, the Pillager and Lake Winnebigoshish bands, and the Red Lake and Pembina bands of Chippewas, thus avoiding the necessity of warehouses and sub-agencies at a distance from the agent. Everything will be under his immediate care. It deserves to be further noted that their present reservations, which are ceded by this treaty, contain good pine lands, and would become a great source of profit for the lumberman. At present they constitute the frontier, and the Indians are surrounded and under the influence of that class of bordermen who teach the Indian all the vices and none of the virtues of the white race. The ratification of the treaty and the removal of the Indian would be a blessing to both classes—the Indian and the white man.

The Pillager and Lake Winnebigoshish bands of Chippewa Indians have been very peaceable and quiet during the last year. They show no signs of repeating their depredations of 1862. They have not troubled the white settlements by loitering around or pilfering, but have been generally engaged in some occupation to procure subsistence. In the spring they work at sugar making. In the summer they hunt and take fish from the numerous lakes in their

vicinity. In the fall they are accustomed to gather rice and to shoot ducks; and now they are anxiously awaiting their payment before going on their winter hunt. For further particulars in relation to this tribe, as well as to the Chippewas of the Mississippi, I respectfully refer you to the report of Agent Morril, herewith transmitted.

260 DOCUMENT 24

[Extract from Report of Commissioner Dole to Secretary of the Interior, November 15, 1864; House Executive Document No. 1, 38th Cong., 2d Sess., vol. 5, pp. 184, 185.]

The Pillager and Lake Winnebigoshish bands of Chippewas have been peaceful and quiet, and have found in the pursuit of game and sale of furs at high prices, the planting of some five hundred acres of land and care of the crops, the gathering of five thousand bushels of rice, and manufacture of one hundred and fifty thousand pounds of maple sugar, full employment. They numbered one thousand nine hundred and sixty-six souls at the last enumeration.

261 DOCUMENT 25

[Extract from Report of Clark, Indian Agent, to the Acting Commissioner of Indian Affairs, August 22, 1865; House Executive Documents, 39th Cong., 1st Sess., vol. 2, p. 628.]

SIR: On the 8th instant I returned from a visit to the Indians of this agency located at Leech Lake, Cass Lake, Red Lake, and Ottertail Lake, having traveled a distance of nearly five hundred miles on the round trip.

On the trip I took occasion to examine the country through which we passed, to satisfy myself of the best place on the Indian reservation for the location of the new agency buildings to be erected for the common use of the Mississippi, Pillager, Lake Winnebagoshish, Red Lake, and Pembina bands of Chippewa Indians. There is no one locality on the new reservation of the Mississippi Indians where they could all be settled in a body, on account of the small tract of good land in the vicinity of lakes, sugar-maple and rice fields, from which they obtain their living in addition to what they obtain from their small gardens and their hunts. It will therefore be necessary to remove the Mississippi Indians to different points on their new reservation. From what I have seen and can learn of their country, I would recommend the following mentioned places as best adapted to the future settlement of these Indians, viz: At Oak Point, Lake Winnepeg, Long Lake, and on the north shore of Leech Lake.

In this connection I would refer you to the enclosed letter of George Bonga, who has lived in the Indian country for many years, and whose views on matters connected with the improvement of the condition of the Indians are entitled to consideration.

262 DOCUMENT 26

[Letter from George Bonga to Major E. Clark, Indian Agent, August 19, 1865; House Executive Documents, 39th Cong., 1st sess., vol. 2, pp. 929, 930.]

SIR: Since your trip to the Red Lake country I presume you are convinced of the impracticability of removing the Mississippi and Mille Lac Bands to that part of the country. It appears to me that one of the many obstacles is that the land that would be most suitable to place Indians on is outside of their reservation. Even if it was on their land, there is not enough of good land to accommodate so many Indians (I mean the Rice Lake country). Another objection, which is of much importance to the Indians, is, there is no sugar trees within 90 or 100 miles of the above country; only at one lake there might be sufficient for five or six families. There is another great item which must not be overlooked; that is, there are not rice fields in that country, or lakes where they can make a fall fishing, upon which they depend a great deal for their winter support.

It is now full thirty years since the Government and missionaries have been trying in every way to get these Indians to adopt in some way the habits of the white man, but all their efforts have been to no purpose. As a general thing, the Indian would rather let himself starve and perish before he will cut down trees and grub roots, and plough the soil, whereby the could get a good living. There being but very little game in that country, how is the Indian to live in such a country after he has eaten up his six months' provisions which he will be allowed by the treaty? I have always noticed that it is ten, I might say twenty, times more difficult to remove Indians than it is to make treaties with them. There must be taken into consideration the great ignorance of the Indian; he never travels much outside of the country he hunts on. Many of them are perfectly ignorant of any other part of the world. Hence his reluctance to leave the place he has lived on all his life, and the graves of his parents and his children. Should the Government determine to remove the Indians to the above country, pardon me if I say it is

263 my candid belief that it will require many soldiers to drive and keep them there. The country is such that it would be difficult for soldiers to travel in without a very large outlay of money. Permit me to ask, why not take an easier task to remove these Indians to other parts of their new reserve, whereby all the Indians would be satisfied? I will take the liberty to suggest, say, place the Pukgamaun and part of the Sandy Lake Band at Oak Point. I say part, for many of those Indians are related with other bands which they would prefer to go with to places that I will mention herein. There is more good land at that point than they will ever cultivate, and plenty of sugar trees near at hand, and a pretty good place for fish. Many of them have been living there for these several years past.

The Rabbit Lake Band could be placed at Lake Winnepeg. They would have the benefit of one of the best lakes for fish in the country, and all the sugar trees they could use. They could not help but be contented at this place. The Gull Lake Indians, many of them, are related with the Indians of this lake, and I presume would be glad to be removed to this place. There is plenty of unoccupied good land here—more than would be required for that band—without exception the best lake for fish in the country, not occupied by the Indians of this place, and more maple than they would want.

The Rice Lake Band, and the few that are to be called the Mississippi Band (I mean those that straggle about Crow Wing and below) could be removed to Long Lake, a few miles above Cass Lake. They, too, are closely connected with the Cass Lakes, and I feel confident that they would all be glad of the chance of living near neighbors. In conversation with the Cass Lake chief a few days ago, he told me there was a large tract of maple land at Long Lake, and one of the best places for fall fishing that he knew of. It is my impression that many of the Sandy Lakes would like to be removed to the last-named lake.

264 DOCUMENT 27

[Treaty of March 19, 1867; ratified with amendment April 8, 1867; amendment accepted April 8, 1867; proclaimed April 18, 1867. (16 Stat. 719.) Not reproduced in this record.]

265 DOCUMENT 28

[Extract from Report of Bassett, Indian Agent, to Commissioner Taylor, September 30, 1867; House Executive Documents, 40th Cong., 2d sess., vol. 3, no. 1, pp. 341, 342.]

In consequence of the heavy rains and unusually high waters in the lakes and streams, the rice crop appears likely to be almost an entire failure. This is a great calamity to the Indians, as they depend largely upon it for subsistence, and I fear suffering will ensue in consequence.

266 DOCUMENT 29

[Extract from report of Agent Bassett to Commissioner Taylor, November 20, 1868; House Executive Documents, 40th Cong., 3d sess., vol. 2, pp. 301, 302.]

The Mille Lac Bands of Mississippi Indians manifest a strong desire to remain on their old reservation at Mille Lac. Should they be gratified in this respect but little can be done for them by way of aid in cultivating the soil. The great extent of territory over which the Chippewas of this agency are scattered, the difficulty of access to the summer homes of each little community, have always been a fatal obstacle to success in agriculture. The gather-

ing of these people on reservations chiefly adapted to farming and the establishing of laws over them constitute, it seems to me, the first step towards civilization.

It is to be regretted that while by their late treaty the Mississippi Indians have made themselves amenable to civil law for offences committed against each other, there is no redress, through this source, of wrongs done them by members of other bands.

The Pillagers at Leech Lake, with those at Cass and Winnebahoshish Lakes, are enlarging their gardens from year to year. Their crops the past season are above the average; but their chief reliance for subsistence, game fish, and wild rice, have partially failed them, the former two becoming scarcer with each succeeding year. The generally barren soil of their reservation does not afford much encouragement to extend their operations beyond garden culture. Necessity may yet force them into a pursuit that is now exceedingly distasteful. Protection from the idle and vicious is the great want here as at other points. The Red Lake Indians have made a commendable degree of advancement in agriculture. A narrow belt of exceedingly fertile land extends around the southern and eastern sides of that lake, affording facilities for raising corn, potatoes, and turnips, which they have well improved. While other bands have at times been threatened with famine, these have always appeared to have enough. Their crops the past season were equal to the average.

267 DOCUMENT 30

[Extract from Report of Lieut. Atcheson, Indian Agent, to Commissioner Parker, September 25, 1870. From Report of Commissioner of Indian Affairs for 1870, pp. 307, 308.]

In conclusion, I would most earnestly urge the importance of the early concentration and retention of all the Indians of this agency upon their respective reservations, and that all influences and all action of the Government and its agents, so far as practicable, be addressed to this end. While this recommendation is applicable for like reasons to the entire Indian population, especially will the interests of the Chippewas of the Mississippi be conserved by such efforts. At present scattered in small bands, and roving at will, or occupying widely separated tracts, they are remote from the site of the agency and the supervision of the agent, and the funds appropriated for their benefit, sufficient to accomplish the most beneficient and permanent results if expended solely upon their two reservations, dwindle into insignificance when divided and diverted to suit their present status, a large part being consumed in transportation, and the remainder producing results hardly perceptible. Furthermore, civilization is encroaching upon their old but now ceded abodes and hunting grounds, and its tide must soon force them back. Meantime, mingling with white men only in the character of vagabond, to procure the coveted means of intoxication, or

otherwise share in their vices, and subjected to all the demoralization attendant upon the transition of his country from the old to the new, the Indian yields himself to idleness, drunkenness, and general degradation, and is, moreover, a serious obstacle and annoyance to the progress of good white settlements. To prevent such reciprocity of evil, to bring these Indians under the immediate care and supervision of their agent, and to secure to them from the appropriations in their behalf the highest possible benefits,
268 they must be gathered upon the lands set apart for them, and constrained to remain. Of the two tracts assigned to them, that at White Earth is the preferable one, and all that could be desired for the purpose. The slight improvements already made at this point, I am happy to add, will probably secure the influx during the ensuing spring of quite a number now off their reservations. By a wise and liberal policy in the further development of its natural resources, and the establishment of the needed educational facilities, it is believed this movement may be largely increased, and continued until all the Chippewas of the Mississippi shall be congregated upon the fertile soil of White Earth. Here, if anywhere, may be successfully wrought out the problem of their civilization.

269 DOCUMENT 31

[Extract from report of Indian Agent E. P. Smith to Commissioner of Indian Affairs, November 8, 1871. From Report of Commissioner of Indian Affairs for 1871, pp. 590, 591.]

The White Oak Point Mississippi Chippewas, comprising what were formerly known as Rabbit Lake and Sandy Lake Indians, I find in a more deplorable and hopeless state than even the Gull Lakes. They have suffered by a removal which was entirely a fraud upon the Government and the Indians. Under claim of bettering their condition by placing them on agricultural lands, they were brought to one corner of their reservation and subsisted six months, a half dozen houses were erected, and less than 40 acres broken up; all this at a heavy cost to the Government and without the least benefit to the Government or the Indians. The 40 acres include all the land at that point which is susceptible of being plowed. Just upon the border of their reserve they are out of the reach of all civilizing influences, and, under the demoralization of the lumber camps around them, are becoming degraded in all respects. Some of them may be induced to undertake another removal and go to White Earth. The necessary expense of such removal can be provided for by the sale of the pine on their reservation, of which report will be made further on.

The Pillagers and Winnebagoshish Bands of Chippewas live around Leech Lake, with the exception of 358 Pillagers living in Otter Tail County and 139 who are at White Earth. The Otter Tail Bands are constantly in trouble with settlers, and should be

removed in the spring to White Earth. An appropriation of $15,000 will be required for this purpose. For turbulence and general worthlessness of character these Pillagers have had a growing reputation for many years. They have burned their sawmill, broken up farming tools, killed their oxen, robbed the warehouse, and attacked employees with impunity, and some of them, during the past winter, held councils with other Indians for another raid upon the whites. Finding that a large share of this bad conduct was due to the influence of a few ringleaders I had them arrested. They escaped the guard, but afterward came in and promised good behavior
270 and were released on parole. I am happy to report that this little show of firmness and prompt action with these marauders has resulted most favorably in its effect on all the band, while the turbulent ones have become quiet and seem well disposed. There are many difficulties in the way of the improvement of the Pillagers. Their reservation is a barren country, with only here and there a patch of ground susceptible of tillage. The few gardens which have been cleared are scattered on all the shores and inlets of the lake, and are accessible only by canoe or steamboat. It not infrequently costs $20 to cross-plow a half-acre garden. There are, however, points on the lake where 100 and 150 acres of hardwood land can be found in a body and cleared up into good farms if the adequate means can be provided. The funds for this purpose can be raised from the sale of the pine timber standing on the reservation, of which I shall report further on. The steamboat on Leech Lake, so essential to the Pillager Reservation and also for transportation to the Red Lake and Oak Point Reservations, is a dangerous and expensive affair. Three miles per hour, with favorable wind, is rapid headway for her. During the summer one hand has been employed almost daily at her pumps to keep her afloat at her docks. I recommend that a small tug be purchased, and that the engine be taken out of the present boat and sold and the hull used for a barge. A tug suitable for this lake will cost, delivered on the lake, $6,750. It is essential to the administration of the agency for the Pillagers that this boat be furnished. At the best, the old boat can not run longer without extensive repairs; and without the constant use of a boat the Pillager Reservation must be abandoned.

271 DOCUMENT 32

[Extract from report of Agent E. P. Smith to Commissioner of Indian Affairs, October 1, 1872. From report of Commissioner of Indian Affairs for 1872, pp. 208, 209.]

I believe the condition of the Pillager band especially requires the careful consideration of the commissioner. Part of this tribe are known as the Otter Tail Band. By an appropriation of $25,000, the right was purchased of the White Earth Indians for this band to remove to White Earth. The consent of the White Earth band was accorded, and the Otter Tails removed. But there were no

means to establish them at White Earth, to open farms, build houses, or even feed them while they were making their first crop. In my last annual report I asked for $20,000 for this purpose, but the appropriation was not made, and, as a consequence, the Indians are yet stragglers. They are warned off from their own grounds, near Otter Tail, by the State authorities, and are liable any day to come into conflict with the State militia.

The remainder of the Pillager tribe, some 1,500, lie around Leech Lake. It is not possible for them to live on their reservation without cultivating the ground, and it would be much better for them if they could be forced to go to White Earth, and the right of staying there be purchased for them; but I am satisfied that they could not be induced to go there in a body. A few would go if inducements could be offered. They should not be obliged to roam around the State for a living. To prevent this, they must have assistance in clearing patches of ground and cultivating the soil. Many of them seem to be ready for this, and have asked in open council that their Great Father will help them to go to work and plow. As I have heretofore reported, the farming at Leech Lake is accomplished under unusual difficulties. The patches of arable land suitable for cultivation lie around the lake and are accessible only by steamboat. At the best such access is expensive, and, with the boat now in use, it is impossible. If anything is to be done with these Pillagers, to keep them on their reservation, and save them from conflict with the State authorities, there must be an appropriation of at least $25,000, of which, for a new boat, $5,000, and for agricultural purposes, $20,000; this latter amount to be expended entirely upon Indian labor, feeding and clothing Indians only in return for their own labor in clearing and planting.

272 The Mississippi Chippewas at White Oak Point have experienced little change during the year. They are coming more and more in contact with lumbermen, who are close on the border of their reservation, and some of them are learning to work in their camps, while they are learning more or less of the worst vices of civilization. The removal of these Indians in 1867 was worse than a farce. They were brought to White Oak Point, and fed six months at a heavy expense, and then, with few exceptions, returned to their old haunts, where they now live. White Oak Point, to which they were removed, affords no opportunity for farming. The most of the few acres plowed have gone back to grass and trees. The log houses are in ruins, and it is now found that even this attempt at settlement was not within the limits of the reservation. No effort of any kind is made to ameliorate the condition of these Indians.

273 DOCUMENT 33

[Extract from Report of Special Agent Whitehead, Leech Lake Agency, September 12, 1874; accompanying Report of Commissioner of Indian Affairs, 1874, pp. 196, 197.]

In referring to my statistical report you will observe that a very small proportion of this reservation is classed as tillable. This is in scattered parcels, requiring the use of the steamboat, at a great expense of time and money, to reach and plow it for the Indians. Even if there should be a chance for colonization, there will be for a number of years many families around the lake who will prefer to remain here and cultivate their gardens. I would recommend that there be oxen issued at the principal points around the lake to be under the supervision of the agent, that they should do the plowing in the spring, and that the funds applicable to farming purposes be expended in that way. The failure of civilization under the present existing tribal relations is too evident to need comment. The only hope of civilization is in individualization and voluntary colonization. There are some 25 families who are ready and anxious to colonize, if they can have assurance of assistance and protection. This would open the way for the permanent improvement of the Indians under my charge. There should be some place set apart for this purpose where schools and churches could be successfully introduced.

* * * * * * *

The White Oak Point Reservation contains about 8,000 acres, of which 100 are of fair agricultural quality. Only a very small portion of this, however, is under cultivation. They being so far around from the agency, but little comparatively could be done for them this year. I have visited them twice during the summer for the purpose of distributing seeds and twine and looking after their general welfare. Many of them are not living on their reservation. During the winter they are mostly "hangers-on" around the lumber camps, and are much more apt in learning vicious habits than any good. They are in the main a quiet and orderly people, and some of them are endeavoring to improve their condition.

274 The Indians under my charge still depend largely on hunting and fishing for subsistence, and in their pursuits they are brought in too frequent contact with the whites, and are liable to get into trouble. If they were absolutely obliged to stay on their present reservations during the whole year, they must certainly starve unless rationed by Government.

275 DOCUMENT 34

[Extract from report of Special Agent King to commissioner, September 1, 1876, accompanying report of Commissioner of Indian Affairs, 1876, p. 80.]

It should be said that the desire for employment, willingness to labor, seems decidedly on the increase. Such items as these from our statistics, obtained with painstaking care, and believed to be not exaggerated, give good evidence that somebody has worked: 2,000 bushels of corn, 3,000 bushels of potatoes, 100 bushels of turnips, 50,000 pounds of maple sugar, 35,000 pounds of wild rice, 1,200

bushels blueberries, and 10,000 pounds fresh fish actually sold. From reports made to me by our traders I judge the sales of furs by our Indians would aggregate $25,000. We also estimate that the catch of fish for their own use must be 500,000 pounds.

276 DOCUMENT 35

[Extract from report of Special Agent Pratt at Leech Lake, to commissioner, August 30, 1877, accompanying report of Commissioner of Indian Affairs, 1877, pp. 124, 125.]

Most of the good-land crops are promising; the rainfall has, however, been surprisingly distributed. At Cass Lake it has been so excessive as to be damaging to crops, while gardens at Winnebagoshish and portions about Leech Lake have suffered from drought. Grasshoppers have never been troublesome here. The estimate of potatoes raised by Indians this year is 3,000 bushels, and of corn 2,500 bushels. The yield of both would have been larger had the rains been more timely.

The material prosperity is not as good as last year in several respects. The season for sugar-making was very unpropitious, last year's product by them having been 50,000 pounds, while this year it is scarcely more than 10,000 pounds. The bountiful supply of blueberries gathered last year, by sale, brought them $1,000 of valuable supplies. This year extended wood fires destroyed nearly all of this wholesome and valuable fruit. Lastly, their harvest of wild rice is very meager in most localities, probably on the whole not half a crop will be gathered. In the largest rice-growing sections high water has either drawn the roots of the plant quite out of their bed, or the head of the plant is so little above the water that, by their method of harvesting, the crop can not be gathered, but must fall into the water and be lost. A falling off of 15,000 or 20,000 pounds in their wild rice is a serious loss, in addition to the items above named. These are acts of Providence, and in no case the result of present shiftlessness of the Indians.

277 DOCUMENT 36

[Extract from report of Agent Ruffee, White Earth Reservation, to commissioner, August 27, 1879; accompanying Report of Commissioner of Indian Affairs, 1879, p. 87.]

I believe immediate steps should be taken to remove the Indians now located at White Oak Point, Sandy Lake, and Gull Lake to this reservation. The removal can be effected without difficulty and at little expense, and with assistance from the Government for a few years, they would then become self-sustaining. Those residing at Mille Lacs also should be removed as speedily as possible without an infraction of existing treaties. Many of the Leech Lake and Red Lake Indians would voluntarily come to this reservation if they

could receive the necessary aid in the form of horses, cattle, breaking of lands, seed, &c., so as to enable them to begin their new life. When this is done the remaining Indians will soon follow.

The lands now occupied by the Indians whose removal is herein suggested are not generally adapted for agricultural purposes, and are chiefly valuable for pine timber growing thereon. Should the Indian title be extinguished, a ready sale could be made of the timber and a fund so created ample to meet the expenses incident to their removal and their establishment in comfortable houses upon this reservation. Much good would result from a concentration of these Indians upon my reservation, in the increased opportunity of the Government to render more effective and uniform the efforts of its agents and employes in their behalf.

278 DOCUMENT 37

[Extract from report of Agent Ruffee, White Earth Agency, September 4, 1880; accompanying Report of Commissioner of Indian Affairs, 1880, p. 104.]

The relative location of the Indians of this agency is about the same as last year. A few families from the Ottertail Bands have removed to and settled upon the south part of the White Earth Reservation, and the indications are that those now remaining away will soon join the main body of their band upon the reservation. A portion of the Pembina Band numbering about 250 persons still absent themselves from the reservation and are roaming over the territory north and west, destitute vagabonds. No better illustration of the improved condition of the Indians upon the reservation over that of those who endeavor to subsist elsewhere could be had than the thrift, industry, and comfort of the one, and the filth, idleness, and pitiful poverty of the other.

279 DOCUMENT 38

[Extract from report of Agent Luse, White Earth Agency, August 21, 1883; accompanying Report of Commissioner of Indian Affairs, 1883, p. 96.]

The Leech Lake Indians should be removed to this reserve. There is no hope for much advancement while living around Leech and Winnebagoshish Lakes. Their soil is unfit for farming purposes and scarce in grass. These Indians are much troubled because there has been no settlement of damages for building the dams. They have made threats as to what might occur if their claims for damages were not heeded soon. I think a new effort should be made, and the only feasible way in my mind is that of arbitration.

280 DOCUMENT 39

[Extract from report of Agent Luse, at Leech Lake, September 1, 1884; accompanying Report of Commissioner of Indian Affairs, 1884, p. 105.]

These Indians, better known as the Pillager Tribe, number about 1,200 souls, and are located in small villages at several points around the lake, and garden on a small scale, living mostly by hunting, fishing, berry picking, &c. They gather wild rice and make large quantities of sugar each in their season. Rice and fish are the staples on which they live from one season to the other. They are industrious in all their pursuits and their small gardens of potatoes and corn are growing finely.

281 DOCUMENT 40

[Extract from Report of Agent Sheehan, White Earth Agency, August 25, 1885; accompanying Report of Commissioner of Indian Affairs, 1885, pp. 116, 117.]

I desire to call the earnest attention of the department to the matter of damage done by the building of the dams at Winnebagoshish and Leech Lake by overflow. It is estimated that 74,080 acres of land will be subject to overflow by the building of these dams. The damage arising to the rice fields, fisheries, hay meadows, and cranberry marshes leaves these Indians in a pitiable condition, and with small means at their command whereby the necessaries of life can be obtained. All effort to cut hay this year in this vicinity has proved fruitless. I very much fear that much suffering will ensue among these Indians during the coming winter unless the Government acts promptly in the matter to settle all just claims arising from damages done by overflow. This subject demands more than a passing notice from the Government, and prompt and energetic action should be taken at the earliest possible moment.

282 DOCUMENT 41

[Extract from Report of Indian Agent Sheehan, August 22, 1887; accompanying Report of Commissioner of Indian Affairs, 1887, p. 128.]

The Leech Lake Pillagers, Cass, and Winnebagoshish Indians remain in the same condition as heretofore. They cultivate the same small patches of land in corn and potatoes that they have cultivated for years past without material change, and gather small quantities of wild rice, where it is not destroyed by the overflow caused by the reservoir dams. They also gather blueberries and market the same during the months of July and August, as also cranberries in the latter part of September and forepart of October, selling the same for supplies or anything they can get, depending on fall fishing and deer hunting for their scanty subsistence during the winter. Their prospects for their future progress towards self-support and ultimate civilization at the present time depend, according to my humble judgment, on the realization of the arrangements made by them with the Northwest Indian Commission during the summer of 1886.

283 DOCUMENT 42

[Extract from report of Agent Sheehan, August 24, 1888; accompanying Report of Commissioner of Indian Affairs, 1888, p. 149.]

THE WINNEBAGOSHISH, CASS, AND LEECH LAKE INDIANS

The high water caused by the erection of the reservoir dam on the headwaters of the Mississippi River has been the cause of the total destruction of the wild-rice crops which formerly furnished them the one-fourth part of their yearly subsistence. I am pleased to state that their behavior during the past year has been commendable. If I should find it necessary to estimate for the sustenance of these people through the coming winter, I will do so in time to save suffering.

284 DOCUMENT 43

[Report of Northwestern Commission, dated December 1, 1886, contained in Senate Executive Document No. 115, 49th Cong., 2d Sess.]

STIPULATION

It is agreed that either party in its brief or in oral argument, and the court in its consideration of the cause, may refer to Senate Executive Document No. 115, 49th Cong., 2nd session, or any part thereof; the same comprising a full report of the negotiations conducted in the summer of 1886 of the so-called Northwestern Commission, with the various bands of Chippeway Indians of Minnesota, which negotiations resulted in agreements never ratified by Congress, together with letters of transmittal from the Commissioner of Indian Affairs to the Secretary of the Interior, from the Secretary to the President, and from the President to Congress with other papers included in said Executive document. This document is not reproduced herein for reasons of economy, and because only certain parts thereof are believed by the Government to be material. The State objects to all and every part thereof on the grounds of irrelevancy and immateriality.

285 DOCUMENT 44

[Act of Congress of January 14, 1889, generally known as the Nelson Act, 25 Stat. 642. Not reproduced in this record.]

286 DOCUMENT 45

[House Executive Document No. 247, 51st Cong., 1st sess.; being a message from the President, dated March 6, 1890, transmitting a communication from the Secretary of the Interior, with the report of the commission which secured the assent of the Chippewa Indians to the act of January 14, 1889, generally known as the Nelson Act.]

CHIPPEWA INDIANS IN MINNESOTA

Message from the President of the United States, transmitting a communication from the Secretary of the Interior relative to the Chippewa Indians in the State of Minnesota. March 6, 1890, referred to the Committee on Indian Affairs

To the Senate and House of Representatives:

In pursuance of the authority and direction contained in the act of Congress approved January 14, 1889, entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," three commissioners were appointed by the President on February 26, 1889, as therein authorized and directed, namely: Henry M. Rice, of Minnesota; Martin Marty, of Dakota; and Joseph B. Whiting, of Wisconsin, to negotiate with said Indians.

The commissioners have submitted their final report, with accompanying papers, showing the results of the negotiations conducted by them, and the same has been carefully reviewed by the Secretary of the Interior in his report to me thereon.

Being satisfied from an examination of the papers submitted that the cession and relinquishment by said Chippewa Indians of their title and interest in the lands specified and described in the agreement with the different bands or tribes of Chippewa Indians in the State of Minnesota was obtained in the manner prescribed in the first section of said act, and that more than the requisite number have signed said agreement, I have, as provided by said act, approved the said instruments in writing constituting the agreement entered into by the commissioners with said Indians.

The commissioners did not escape the embarrassment which unfortunately too often attends our negotiations with the Indians, viz: An indisposition to treat with the Government for further concessions while its obligations incurred under former agreements are unkept. I am sure it will be the disposition of Congress to consider promptly, and in a just and friendly spirit, the claims presented by these Indians through our commissioners, which have been formulated in the draught of a bill prepared by the Secretary of the Interior and submitted herewith.

287 The act of January 14, 1889 (25 U. S. Stat., 612) evidently contemplated the voluntary removal of the body of all these bands of Indians to the White Earth and Red Lake Reservations; but a proviso in section 3 of the act authorized any Indian to take his allotment upon the reservation where he now resides. The commissioners report that quite a general desire was expressed by the Indians to avail themselves of this option. The result of this is that the ceded land can not be ascertained and brought to sale under the act until all of the allotments are made.

I recommend that the necessary appropriations to complete the surveys and allotments be made at once available, so that the work may be begun and completed at the earliest possible day.

A copy of the report made by the commissioners, with copies of all of the papers submitted therewith except the census rolls, is herewith presented for the information of the Congress.

BENJ. HARRISON.

EXECUTIVE MANSION,
March 4, 1890.

DEPARTMENT OF THE INTERIOR,
Washington, January 30, 1890.

The PRESIDENT:

There has been filed in this department the report of the Chippewa Commission, one copy whereof is herewith transmitted for your consideration and action.

This commission was formed under an act entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," being chapter 24, United States Statutes at Large, volume 25, page 642, approved January 14, 1889.

The first section of the act authorizes the creation of the commission, designates its purposes, provides for certain conditions precedent as to a census to be taken, and declares in what manner the cession and relinquishment of the lands therein sought to be obtained by the Government shall be effected. The section is as follows:

"That the President of the United States is hereby authorized and directed, within sixty days after the passage of this act, to designate and appoint three commissioners, one of whom shall be a citizen of Minnesota, whose duty it shall be, as soon as practicable after their appointment, to negotiate with all the different bands or tribes of Chippewa Indians in the State of Minnesota for the complete cession and relinquishment in writing of all their title and interest in and to all the reservations of said Indians in the State of Minnesota, except the White Earth and Red Lake Reservations, and to all and so much of those two reservations as in the judgment of said commission is not required to make and fill the allotments required by this and existing acts, and shall not have been reserved by the commissioners for said purposes, for the purposes and upon the terms hereinafter stated; and such cession and relinquishment shall be deemed sufficient as to each of said several reservations, except as to the Red Lake Reservation, if made and assented to in writing by two-thirds of the male adults over eighteen years of age of the band or tribe of Indians occupying and belonging to such reservations; and as to the Red Lake Reservation the cession and relinquishment shall be deemed sufficient if made and assented to in like manner by two-thirds of the male adults of all the Chippewa Indians in Minnesota; and provided that all agreements therefor shall be approved by the President of the United States before taking effect: *Provided further*, That in any case where an allotment in severalty has heretofore been made to any Indian of land upon any of said reservations, he shall not be deprived thereof or disturbed therein except by his own individual consent separately and previously given, in such form and

manner as may be prescribed by the Sceretary of the Interior. And for the purpose of ascertaining whether the proper number of
288 Indians yield and give their assent as aforesaid, and for the purpose of making the allotments and payments hereinafter mentioned, the said commissioners shall, while engaged in securing such cession and relinquishment as aforesaid and before completing the same, make an accurate census of each tribe or band, classifying them into male and female adults and male and female minors: and the minors into those who are orphans and those who are not orphans, giving the exact numbers of each class, and making such census in duplicate lists, one of which shall be filed with the Secretary of the Interior and the other with the official head of the band or tribe; and the acceptance and approval of such cession and relinquishment by the President of the United States shall be deemed full and ample proof of the assent of the Indians, and shall operate as a complete extinguishment of the Indian title without any other or further act or ceremony whatsoever for the purposes and upon the terms in this act provided."

The commission was appointed by the President on the 26th day of February, 1889, and the several members thereof became duly qualified by giving the bond required by section 2 and taking the oath thereunder required, as appears by the files of this department. The census required to be taken by section 1 was completed and one of the duplicate lists thereof filed with the Secretary of the Interior on the 3d day of January, 1890, and the other with the official head of the band or tribe.

It appears by the report of the commission that it sought and obtained the assistance of Bishop Whipple and Archbishop Ireland in its labors, and that all that was done was conducted in a spirit of fairness towards the Chippewas. There were distributed among them 500 copies of the act of January 14, 1889, and several hundred copies of the general allotment act of February 8, 1887.

Councils were held at Red Lake, White Earth, Gull Lake, Leech Lake, Cass Lake, Lake Winnibagoshish, White Oak Point, Mille Lac, Grand Portage, Bois Forte and Vermillion Lake, and Fond du Lac.

At Red Lake the assent of all the Indians to the agreement was obtained except a few called "pagans," residing on the northern shore of the lake. The Indians at Red Lake complained of unfulfilled promises, plead for mills and cattle, and that their boundaries might be surveyed in accordance with treaties. They also prayed for an agent, as they were 80 miles from the White Earth Agency. The Red Lake Reservation, two-thirds of which at least is ceded to the United States, contains 3,200,000 acres, and the number of Indians occupying it is 1,168. The boundaries of the diminished reservation, from which allotments to the Red Lake Chippewas are to be made, are given in the report. The commissioners report that—

"This reservation is larger than will eventually be required, but as there are swamps and other untillable lands therein, it can not be reduced until after survey and allotments shall be made."

Whether the surplus lands that may remain after allotments shall have been completed as required by the law can be disposed of without further legislation is a question which will require consideration, but such consideration is not necessary at this time.

The Indians on the Red Lake Reservation were suffering for want of food, owing to the loss of crops the last season.

The Indians of the White Earth Reservation were also suffering for food. They insisted upon the provisions of article 9 of the treaty of September 30, 1854, and that damages should be paid because of the construction of reservoirs on the reservation near the headwaters of the Mississippi, provision for which had been made by the Northwest Commission three years ago, and which negotiations have not been acted on by Congress. No explanation could be given why the provisions of the treaty of September 30, 1854, had not been fulfilled, but the Indians were promised that the
289 best efforts would be given to secure justice in this case, and upon these assurances the acceptance and signing of the propositions made were nearly unanimous. This matter is incorporated in the draught of a bill herewith presented for submission to Congress.

The White Earth Reservation contains 796,762 acres, and the number of Indians occupying the same is 2,044. They complain of want of milling facilities. They have about 5,000 acres seeded in wheat, barley, and vegetables, but owing to want of rain not more than half a crop will be grown. At least 2,500 acres heretofore cultivated lies fallow for want of seed and teams.

There were but 277 Chippewas at Gull Lake, all of whom signed the agreement and agreed to make their permanent home on the White Earth Reservation as soon as they should be furnished with means to cultivate the soil and subsist until they could make a living.

At Leech Lake Reservation, amid pompous demonstrations, the commission was received, and the first demand made of them was that there should be settlement of outstanding claims. Nor was the business allowed to proceed until the commission had given a solemn promise with raised hands that they would to their utmost ability urge the immediate settlement of these unadjusted demands. These Pillager Indians have a claim for lands ceded to the United States under the treaty of 1847, which it is urged should be carefully investigated, and the Pillagers allowed what may be found in equity due them, and also for damages arising from the construction of reservoirs at the headwaters of the Mississippi. For these damages it is recommended that there be paid $150,000, with 5 per cent per annum to date, and $1.25 per acre for the overflowed lands. The Indians have absolutely ceded to the United States 46,920 acres, which can not be sold, as provided in the act of January 14, 1889, for their benefit, and it is and must be reserved for the overflow caused by the

reservoir dams. An item covering the claim for damages by reason of the construction of the dams is also incorporated in the inclosed draught of bill.

The alleged claim of the Pillagers for further compensation for land ceded under the treaty of 1847 is a matter for consideration by Congress, and I would recommend that it be brought to the attention of that body. The statement upon which this claim is based by the Indians is set forth in the report of the commission.

At Cass Lake a like demand was made by the Indians for the settlement of unsatisfied demands, but all gave their assent and signatures to the proposition.

The Indians at Lake Winnibagoshish depend much upon their wild rice, which they were gathering at the advent of the commission. The injury done them by the building of the reservoirs is very great. They are destitute, as are those at Cass Lake, of aid from the Government, having no missionary, school, farmer, blacksmith, or physician. The commissioners observe that the Winnibagoshish Reservation is marked upon the map by township lines, which is erroneous, as the treaty fixes its line by natural boundaries beyond those shown by township lines. This has given much dissatisfaction, as the whites have settled between the two lines and consequently upon the reservation, as the Indians claim. This marking is erroneous, and should be adjusted. All the adults of this band gave their consent to the agreement.

The condition of the Indians at White Oak Point is described as beyond hope of improvement, they being dissapated and dissolute, but they have still intelligence enough to ask that whisky may be
290 kept from the country and that missionaries and school teachers be sent them. They all signed the agreement, and it will be the purpose of this department to supply and enforce so far as may be in its power the regulations so reasonably demanded. Scattered members of the White Oak Point Bands were found at Kimberly, who were healthy in mind and body, unusually bright and careful of themselves, and all of whom were anxious to acquire lands in severalty and the young men eager to find work. They number one hundred, and all except one signed the agreement.

The Indians at Mille Lac were found to be intelligent, cleanly, and well behaved, and of good reputation among the neighboring whites. White men unfortunately have been permitted to rob them of their pine and for years to settle upon their agricultural lands, to great injury and fear of the Indians. Squatters are now settling upon this reservation, as the commissioners report. The question of right should be settled at the earliest possible moment, for the greater the delay the more difficult will be the adjustment. All signed the agreement at this place.

The rights of the Indian upon this reservation have been a vexed question, full of difficulties and embarrassments, but it is hoped that this agreement will furnish a basis for its early and final solution.

At Grand Portage the Indians expressed themselves as fully understanding and satisfied with the terms of the act, and signed with cheerfulness and unanimity. They complained that the white fishermen spread so many large nets near their reservation that the Indians were unable to procure a supply of fish for food.

At Bois Forte and Vermilion Lake the Indians seemed timid and distrustful, but they "touched the pen" finally with great solemnity and much formality. They have the best hunting grounds of the Chippewas. They seem willing to learn to till the soil, but ask for assistance in the way of better facilities. Much of the land on the Lake Superior Reservations is unfit for cultivation, and the Bois Forte Indians complain that a large amount of their timber is cut without compensation and is run down Little Fork River to the British possessions.

Many of the Indians at Fond du Lac are in danger of suffering during the winter and spring, having been denied the right of cutting timber on their reservation. Like all of the Mississippi Bands, they feel greatly grieved at the long-continued withholding of the money due them from the Government. On the positive assertion of the commissioners that justice should be speedily done, not only in this respect but in the matter of a palpable error in the boundary lines of their reservation, they were induced to listen, and finally signed by touching the pen.

This claim for additional land to which the Indians insist they are entitled under the plain and unmistakable meaning of the treaty should have careful consideration and be fairly and speedily adjusted.

The commission reports:

"As the various bands decided to take their allotments on their respective reservations, the commission told them that the $90,000 to be advanced and already appropriated would be paid pro rata as soon after the approval of these negotiations by the President as should be practicable, but not later than the coming spring."

The commission further reports that--

"The clause of the act of January 14, 1880, providing for the payment of the interest that may accrue on the permanent fund was to the commission obscure, and they promised the Indians that cash payment should be made per capita in equal shares."

291 It is provided in section 7 of the act of January 14, 1889 (25 Stats., 612):

"That one-half of said interest shall, during the said period of fifty years, except in the cases hereinafter otherwise provided, be annually paid in cash in equal shares to the heads of families and guardians of orphan minors for their use; one-fourth of said interest shall, during the same period and with the like exception, be annually paid in cash in equal shares per capita to all other classes of said Indians; and the remaining one-fourth of said interest shall, during the said period of fifty years, under the direction of the Secretary of the Interior, be devoted exclusively to the establish-

ment and maintenance of a system of free schools among said Indians, in their midst and for their benefit; and at the expiration of the said fifty years, the said permanent fund shall be divided and paid to all of said Chippewa Indians and their issue then living, in cash, in equal shares."

This construction by the commission is deemed reasonable. While there may be some discussion possibly in regard to its validity, it is deemed that it is in harmony with the spirit of the act, and having been made the basis of the Indians' assent it should be adhered to.

The Indians desire that the Government will set aside a sufficient quantity of land on each reserve for Government buildings, such as may be necessary for physician, blacksmith, farmer, carpenters, and for missionaries, traders, etc. The commissioners recommend this, and the reservation, it is submitted, should be made, and the order as to the location and erection of such buildings should be enforced.

The reservation of the necessary and suitable tracts of land for these purposes can be made the subject of an Executive order when proper selections shall have been made, which should be attended to before the lands are offered for disposal under the act.

The commissioners further recommend that on each reservation a tract of pine land should be reserved and held by the General Government as might be necessary for their common use, to be so held during the pleasure of the Secretary of the Interior.

I doubt whether this request for the reserving and holding by the General Government of a tract of pine land upon each reservation for the common use of the Indians remaining thereon can be complied with without legislative authority therefor, in view of the terms and conditions of the act to which the Indians have given their consent.

They ask for sawmills, cattle, agricultural and mechanical implements, which they must have, or they can make no substantial progress.

The commission reports that although the Indians have decided to take allotments on their reservations, it is believed that many may be induced to remove to White Earth, and for this reason it is not prudent to urge individual allotments elsewhere than on the White Earth and Red Lake Reservations at present.

The removal of those who will go to White Earth will take place as soon as provisions can be made for their subsistence. It will be of the greatest benefit to the Indians and to the State to have the removal made.

The commission ask that there may be granted 10 acres of maple timber for making sugar to each family occupying the same. This is deemed ample and is as much as should be granted. The matter should receive attention when the individual allotments are made to the Indians.

The commissioners state that it is important that the four townships of pine land on the White Earth Reservation should be early estimated and sold, as the timber is liable to be stolen or burned;

while on the other hand the swamp lands of valuable cedar and tamarac should be withheld from sale under the pre-emption
292 laws, and sold under the direction of the Secretary of the Interior, in such manner and upon such terms as to him shall seem best for their interests.

I fully concur in the suggestion of the commissions, that the ceded lands of the White Earth Reservation already surveyed should be disposed of under the terms of the act, at as early a date as possible, but I do not see how the swamp lands referred to and reported to be valuable chiefly for cedar and tamarac can be withheld from sale as requested without further legislation in view of the last clause of section 4 of the act, which reads as follows:

"All other lands acquired from the said Indians on said reservations other than pine lands are for the purpose of this act termed 'agricultural lands.'"

And section 6 provides specifically the manner in which unallotted and unreserved agricultural lands shall be disposed of. I think, however, that this request of the Indians should receive favorable consideration by Congress, and that the necessary legislation should be had authorizing the reservation and disposal of the cedar and tamarac swamp lands as desired by the Indians.

It is reported and believed that upon Grand Portage, Bois Forte, and Vermillion Lake Reservations there are valuable mines, and the Indians request that if such are discovered they shall be disposed of by the Secretary of the Interior as best to subserve the interests of all concerned. I do not concur in the recommendations of the commissioners regarding the request of the Indians for the disposal of mineral lands. I can not see how such a request can be complied with under the law.

The commissioners state that the pine ceded is estimated by various parties from $25,000,000 to $50,000,000.

It is reported by the commission that a further apporpriation for surveys and examination of the lands will be necessary, and that a small appropriation should be used for the purpose of defraying the expenses of the Indians who may desire to visit the White Earth Reservation, with the expectation of removing there before allotments should be taken or confirmed elsewhere.

Section 8 of the act makes an appropriation of $150,000 "to pay for procuring the cession and relinquishment, making the census, surveys, appraisals, removal, and allotments, and the first annual payment of interest herein contemplated and provided for." Ninety thousand of this sum is required to pay the first annual payment of interest, leaving but $60,000 for the other purposes specified. The commission has expended about $30,000 in procuring the cession and relinquishment, and making the census, leaving about $30,000 for the surveys, appraisals, and for the removal and allotments provided for in the act. This balance is manifestly insufficient to enable the department to accomplish these further provisions of the act, and I therefore concur in the recommendation that a further appropriation

be made, and an item for that purpose is included in the draught of bill herewith submitted, which also provides for defraying the expenses of Indians visiting the White Earth Reservation.

The commission further remark that the Red Lake Indians should be encouraged to commence farming and building houses the coming spring, and furnished with cattle and implements, etc.

All these requests of the Indians and recommendations of the commission for furnishing mills, farming implements, cattle, buildings, etc., raise the question of an appropriation therefor, which requires to be carefully considered. Section 7 of the act provides the manner for the disposition of the interest on the proceeds arising
293 from the disposal of the lands, as previously recited in this report. It is in said section further provided:

"That Congress may in its discretion, from time to time, during the said period of fifty years, appropriate, for the purpose of promoting civilization and self-support among the said Indians, a portion of said principal sum, not exceeding five per centum thereof. The United States shall, for the benefit of said Indians, advance to them as such interest as aforesaid the sum of $90,000 annually, counting from the time when the removals and allotments provided for in this act shall have been made, until such time as said permanent fund, exclusive of the deductions hereinbefore provided for, shall equal or exceed the sum of $3,000,000, less any actual interest that may in the meantime accrue from an accumulation of said permanent fund; the payments of such interest to be made yearly in advance, and in the discretion of the Secretary of the Interior, may, as to three-fourths thereof, during the first five years, be expended in procuring livestock, teams, farming implements, and seed, for such of the Indians, to the extent of their shares, as are fit and desire to engage in farming; but as to the rest, in cash."

As the $90,000 already appropriated as first payment of interest was promised by the commission should be paid pro rata in cash, there is no fund out of which the mills, etc., can be purchased, unless Congress shall make an appropriation to enable the department to provide these necessary and essential things so urged by the commission, and make such appropriation reimbursable from the principal sum arising from the disposal of said lands. An item for that purpose is embraced in the draught of bill herewith.

It is suggested that there are many persons of Chippewa blood dwelling in Michigan, Wisconsin, and elsewhere, but that the chiefs and headmen should be consulted as to the justice of their claims when they assert the right to the benefits under recent negotiations.

It will be perceived that some portions of the recommendations of the commissioners may be carried into effect through orders of this department, and the same will be done to the extent possible; but, as to those matters dependent upon further legislation, the President will have to request action by Congress. The chief of these will be to make such appropriations as will pay the demands of the Indians

under previous treaties, and for the damages done by the reservoirs established upon the reservations. This matter has long been pending, and its adjustment seems to be demanded by ordinary good faith and the plainest principles of justice.

The $150,000 hereinbefore mentioned, recommended for the damages done by the overflow of the reservation dams, with 5 per cent interest, should no longer be refused.

There should be a due appropriation made also for the establishment of schools and the employment of farmers, blacksmiths, and physicians, and particular provision made to preserve these Indians from want during the remainder of the winter and coming spring.

The first section of the act provides for an accurate census of each tribe or band, to be taken by the said commissioners while engaged in securing such cession and relinquishment, classifying them into male and female adults and male and female minors; and the minors into those who are orphans and those who are not orphans, giving the exact number of each class.

The commissioners submit census reports taken by them in the manner and form prescribed by the act, a summary of which is as follows:

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	Total	Adults		Minors		Orphans	
		Male	Female	Male	Female	Male	Female
Red Lake and Pembina Bands:							
Red Lake	1,168	303	359	237	247	15	7
Pembina	218	83	63	38	33	-------	1
Total	1,386	386	422	275	280	15	8
Mississippi Bands:							
White Earth	1,169	284	279	300	292	9	5
Gull Lake and scattering	277	61	75	49	89	1	2
White Oak Point	661	176	211	129	114	15	16
Mille Lac	895	213	289	180	204	6	3
Total	3,002	734	854	658	699	31	26
Pillagers and Lake Winibigoshish Bands:							
Leech Lake	1,141	324	348	239	215	8	7
Otter Tail	657	164	180	154	158	-------	1
Cass Lake	241	67	71	53	43	1	6
Lake Winibigoshish	169	45	50	34	33	3	4
Total	2,208	600	649	480	449	12	18
Grand Portage, Bois Forte, and Fond du Lac Bands:							
Grand Portage	294	73	85	60	71	2	3
Bois Forte	743	228	224	153	132	3	3
Fond du Lac	671	157	187	168	140	9	10
Total	1,708	458	496	381	343	14	16
RECAPITULATION							
Red Lake and Pembina Bands	1,386	386	422	275	280	15	8
Mississippi Bands	3,002	734	854	658	699	31	26
Pillagers and Lake Winibigoshish Bands	2,208	600	649	480	449	12	18
Grand Portage, etc., Bands	1,708	458	496	381	343	14	16
Total	8,304	2,178	2,421	1,794	1,771	72	68

The commissioners also submit reports showing the number of male adults of each of the separate bands and the number of such male adults assenting to the act of which the following is a summary:

	Male adults	
	Total	Assenting
Red Lake and Pembina Bands:		
Red Lake	303	247
Pembina	83	77
Total	386	324
Mississippi Bands:		
White Earth	284	270
Gull Lake and scattering	61	57
White Oak Point	176	172
Mille Lac	213	189
Total	734	688
Pillager and Lake Winibigoshish Bands:		
Leech Lake	324	217
Otter Tail	164	144
Cass Lake	67	65
Lake Winibigoshish	45	40
Total	600	466
Grand Portage, Bois Forte, and Fond du Lac Bands:		
Grand Portage	73	72
Bois Forte	228	211
Fond du Lac	157	123
Total	458	406
RECAPITULATION		
Red Lake and Pembina Bands	386	324
Mississippi Bands	734	688
Pillager and Lake Winibigoshish Bands	600	466
Grand Portage, etc., Bands	458	406
Total	2,178	1,884

295 This summary shows that the total number of male adults is 2,178 and that 1,881 of that number signed their acceptance and consent to the act, being over 86 per cent, of such male adults, and more than the requisite "two-thirds of the male adults over eighteen years of age of the band or tribe of Indians occupying and belonging to" each of the several reservations, and more than "two-thirds of the male adults of all the Chippewa Indians in Minnesota," as is required in the case of the Red Lake Reservation. (Section 1 of the act.)

The commissioners have not submitted their recommendations in separate form, and what is herein stated has been gathered from the general purport of their report, all of which will be more fully considered by the appropriate committees, with the view of doing complete justice to this tribe, which has reposed its confidence so firmly and fully in the Government and relied upon its justice.

It is provided in section 1 of the act authorizing negotiations "that all agreements therefore shall be approved by the President of the United States before taking effect."

The agreement or acceptance and consent of the Indians to the act, herewith, in ten parts, is therefore respectfully submitted for your action.

Before the ceded lands within any of the reservations can be disposed of as contemplated in the act, all of said ceded lands must be surveyed as the public lands are surveyed, after which they are to be carefully examined in 40-acre lots, by competent and experienced examiners to be appointed for that purpose, and classified into "pine lands" and "agricultural lands," the pine lands are then

to be valued and listed, etc. (section 4), and finally proclaimed as in market and offered for sale in the manner prescribed in section 5.

The agricultural lands not allotted nor reserved for the use of the Indians, after having been surveyed, are to be advertised for thirty days and disposed of to actual settlers under the provisions of the homestead laws, each settler being required to pay $1.25 per acre for the lands so taken by him.

Besides all this it will be necessary to ascertain how many and who of the Indians of the several reservations elect to take allotments on the reservations where they now live, as by the terms of the act they are permitted to do, instead of being removed to White Earth Reservation (section 3). It is not seen how any of the ceded lands, except possibly those of the Red Lake Reservation and the four townships ceded in the White Earth Reservation, can be offered for sale or settlement until the Indians of the several reservations who elect to remain and take allotments where they are shall have signified their intention to so remain and shall have made their individual selections for allotment; nor can the Red Lake ceded lands be so offered until the surveys, examinations classification, etc, shall have been fully completed.

Your approval, therefore, of the agreement will not open any of the reservations to white settlement, nor render them subject to occupancy or disposal in advance of the complete fulfillment of the preliminary work of surveys, examinations, etc., and in the case of the "pine lands," after all these preliminaries have been met, the lands must be "proclaimed as in market and offered for sale."

It is perhaps unnecessary, then, that any action should be had at this time other than the approval of the agreement.

Adverting here to the recommendation of the commission that the Indians of Red Lake Reservation be allowed to utilize the dead and fallen timber upon their reservation until such time as
296 the survey, appraisement, etc., shall be made, I think this is reasonable, and it seems to me can be done under authority conferred by the act of February 16, 1889 (25 Stats., 673), which provides:

"That the President of the United States may from year to year in his discretion under such regulations as he may prescribe, authorize the Indians residing on reservations or allotments, the fee to which remains in the United States, to fell, cut, remove, sell, or otherwise dispose of the dead timber, standing or fallen, on such reservation or allotment for the sole benefit of such Indian or Indians."

Under the authority thus conferred, the President, on October 16, 1889, authorized the Indians on the White Earth, Red Lake, and White Oak Point Reservations to cut and sell dead and down timber on their respective reservations and I see no reason why the cutting and sale of the dead and down timber under the authority so granted and the regulations then prescribed may not be continued

until the lands are placed upon the market as provided in the Chippewa Act of January 14, 1889.

I invite attention to the fact that the instruments presented by the commission as the result of the negotiations, and as the evidence that the Chippewa Indians in Minnesota have given their consent in writing to the cession and relinquishment of their title and interest in and to the lands as therein set forth, comprise ten parts, marked separately as A, B, C, D, E, F, and H, G, I, K, and L; these, however, in fact constitute as a whole one instrument, and the part marked C, and entitled "Signatures Roll Mississippi Chippewa Indians, White Earth Reservation, Minnesota," should be placed and considered as the first part, for the reason that it is the only part that embraces the text of the act under and for the purposes of which the commission was appointed.

This is considered necessary, in view of the fact that the act is not recited in the other parts of the instrument, but is referred to therein as follows: "Which said act is embraced in the foregoing instrument," meaning evidently that part marked C, etc., as above stated.

With this as explanation, and as matter of record for proper understanding of the instruments, I think it would nevertheless be well for the approval of the President to be indorsed upon each of the separate parts of the said instrument.

I further recommend that a copy of the report of the commission, and of all its accompanying papers (except the census rolls, which are bulky), with copy of this letter of the department reviewing the same, be submitted to Congress for its information, together with the accompanying draft of bill for making the appropriations herein suggested.

I have the honor to be, very respectfully, your obedient servant,

JOHN W. NOBLE,
Secretary.

A bill to enable the Secretary of the Interior to carry out an act, entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota, approved January 14, 1889," and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums, or so much thereof as may be necessary be, and the same are hereby, appropriated out of any moneys in the Treasury, not otherwise appropriated, to be immediately available, to enable the Secretary of the Interior to carry out an act entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota, approved January fourteenth, eighteen hundred and eighty-nine, and for other purposes:"

For amount due the Chippewa Indians of Lake Superior and Mississippi, arising from balances of appropriations under
297 treaties with said Indians, and covered into the Treasury be-

tween the years eighteen hundred and forty-three, and eighteen hundred and seventy-eight, inclusive; also, the aggregate difference between the coin value of payments made in currency during the years eighteen hundred and sixty-three and eighteen hundred and sixty-four, at the dates of Treasury warrants, and the amounts due in coin by treaty stipulations, with interest at the rate of five per centum per annum, from the date of said Treasury warrants to June thirtieth, eighteen hundred and ninety, the sum of one hundred and ninety thousand dollars, or so much thereof as may be required, to be expended by the Secretary of the Interior in the purchase of such articles as he may deem best, or in the payment of cash, to be apportioned in accordance with article eight of the treaty proclaimed January twenty-ninth, eighteen hundred and fifty-five, one hundred and ninety thousand dollars.

For compensation for losses and damage sustained by the Chippewa Indians on account of the building of dams and reservoirs on Lake Winnebagoshish, Cass Lake, and Leech Lake, the sum of one hundred and fifty thousand dollars, with interest at the rate of five per centum per annum from the seventeenth day of September, eighteen hundred and eighty-six, up to and including June thirtieth, eighteen hundred and ninety, the sum of one hundred and eighty thousand dollars, or so much thereof as may be necessary, to be paid in cash, per capita, in two yearly installments, as follows: Two-thirds to the Pillager and Lake Winnebagoshish Bands, now residing or entitled to reside on the Leech Lake, Lake Winnebagoshish, and Cass Lake Reservations, and one-third to the Mississippi Band, now residing or entitled to reside on the White Earth, White Oak Point, and Mille Lac Reservations, one hundred and eighty thousand dollars.

For compensation for forty-six thousand nine hundred and twenty acres of land at one dollar and twenty-five cents per acre, on account of land overflowed in the construction of dams and reservoirs on Lake Winnebagoshish, Cass Lake, and Leech Lake Reservations, to be divided in the same manner as the compensation for losses and damages above referred to, and to be paid in cash, per capita, fifty-three thousand six hundred and thirty dollars.

For the purchase and erection of saw and flour mills, agricultural implements; for surveys, appraisals, removals, and allotments; for payment of expenses of delegations of Chippewa Indians to visit the White Earth Reservation; for the erection and maintenance of day and industrial schools, for subsistence and pay of employés, and for such other purposes as the Secretary of the Interior may deem proper, the sum of two hundred and fifty thousand dollars: *Provided*, That this amount shall be reimbursed to the United States from the proceeds of sales of land ceded by the Chippewa Indians under the act of January fourteenth, eighteen hundred and eighty-nine, two hundred and fifty thousand dollars.

SEC. 2. That the Secretary of the Interior is hereby authorized and directed to pay, per capita, to the Chippewas entitled to it, under the act of January fourteenth, eighteen hundred and eighty-

nine, the sum of ninety thousand dollars, appropriated by section eight of said act of January fourteenth, eighteen hundred and eighty-nine (Statutes 25, page 645), as first annual payment of interest contemplated and provided for, in lieu of expending it in conformity with the provisions of the above-mentioned act of January folurteenth, eighteen hundred and eighty-nine.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, January 2, 1890.

SIR: Agreeably with your personal request, the 31st ultimo, I have the honor to transmit herewith the final report (in triplicate) of the commission appointed to negotiate with the different bands or tribes of Chippewa Indians in the State of Minnesota, under authority of the act of January 14, 1889 (25 Stat. 642), together with the several agreements entered into, the census of the Indians, and the proceedings of the several councils held with them.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

298 UNITED STATES CHIPPEWA COMMISSION,
St. Paul, Minn., December 18, 1889.

SIR: We have forwarded to your department by express, December 16, 17, and 18, one copy of the census taken by the Commission of the Chippewa Indians of the State of Minnesota; two copies of the stenographic record of proceedings in the councils held with them by the commission; one copy of the agreements with the bands in the State, with the original signatures of the Indians attached; and inclose herewith one copy of a summarization of the census, and one copy of a summary showing the number of male adults in the various bands and the number of those who signed the agreements.

I shall be obliged if the receipt of the various papers is acknowledged.

Respectfully,

HENRY M. RICE,
Chairman.

Hon. T. J. MORGAN,
Commissioner of Indian Affairs,
Interior Department, Washington, D. C.

UNITED STATES CHIPPEWA COMMISSION,
St. Paul, Minn., December 26, 1889.

SIR: In obedience to instructions from your office, dated May 24, 1889, accompanied by "An act for the relief and civilization of the

Chippewa Indians in the State of Minnesota," approved January 14, 1889, this commission met in this city June 11, 1889. After several meetings it was deemed proper, owing to the deep interest the Right Reverend Bishop Whipple and His Grace Archbishop John Ireland had taken in the welfare of the Chippewas, that they should be consulted. A copy of the following note was addressed to each, dated June 13, 1889:

"DEAR SIR: Your church has missions established among the Chippewa Indians in the State of Minnesota, with whom we are instructed to negotiate.

"On account of the intimate knowledge you have, and the deep interest you have manifested in the elevation of this race, we deem it proper you should be represented, and it will be a pleasure to the members of this commission to have with us some one delegated by you who may explain to the Indians any matters affecting their interests which may be presented to them."

In response to this invitation Bishop Whipple selected Rev. E. S. Peake, who had long resided with these Indians, and Archbishop Ireland selected the Rev. Father Aloysius, O. S. B., a resident priest among them, both of whom accompanied us to Red Lake.

That nothing should be omitted that could enlighten the Indians as to the intent of the Government, we had printed 500 copies of the act of January 14, 1889, and several hundred of the "Act to provide for the allotment of lands in severalty to Indians," etc., approved February 8, 1887. These we caused to be distributed among the missionaries, teachers, and other employees of the Government, as well as traders, mixed bloods, and Indians who read the English language.

Owing to their destitute condition, the Indians were scattered in search of food, their crops having failed the previous season, and much time was taken in collecting them.

The first council was held at Red Lake, June 29, where we remained until July 8. We found them intelligent, dignified,
299 and courteous, but for several days indisposed to give a favorable hearing. The propositions were not as favorable as those made three years ago, which did not require the proceeds of their reservation to be shared with others. The chiefs were opposed to breaking up the tribal relations, fearing that if they were so broken their power and influence would be gone. The young men, however, were heartily in favor of the allotment plan, knowing that if their lands were held in severalty, each man's earnings could be used for his own advantage, instead of, as heretofore, being necessarily shared with the idle, but they did not like the provision for providing with other bands, although when it was explained to them that the country from Lake Superior to and beyond the Red River of the North was, by the united efforts of all the Chippewas, taken by conquest from the Sioux, and that had it not been for such united efforts, they could not have taken or held the Red Lake Reservation; they admitted the correctness of this statement, but thought some of

their neighbors had received more than their due proportion of annuities from former sales.

Among themselves, boundary lines were not very strictly regarded, as those of one band intermarried with and joined such other band as was most agreeable; in fact, the young men roamed about at will. The Chippewas of this State did unquestionably, in early times, hold their lands in common. It was so in 1825, at the time of the treaty at Prairie du Chien, and no other idea would ever have been entertained had not the mistaken policy of purchasing a tract here and there from the bands contiguous thereto been adopted. Of the vast cessions heretofore made, there is little, and in many cases nothing, left to show any benefit derived by the Indians therefrom. This is owing largely to the hurtful practice, so long followed, of permitting their tribal relation to exist.

As a result of the reverence the young men have for their chiefs, they would not speak in council, but a delegation called upon the commission after ajournment and requested it should have patience as they had resolved to have a council among themselves, in hope of influencing their leaders, and if successful they would continue to keep in the background. They clearly saw the advantage to them of the propositions made, including the offer of the protection of the law. Their efforts were successful and all of their bands cordially gave their assent by signing the agreement, except a few called pagans, residing upon the north shore of the lake; their head chiefs and others, however, said they had no objections, and would sign when "they saw fulfilled the promises made." We found them very poor, having comparatively nothing to work with, not even farming implements. Years ago they had a saw mill, but from neglect, when a small expenditure would have kept it in repair, it was permitted to go to decay. So for years they have not had lumber to build new or repair old structures, or even make a coffin. They earnestly plead for a sawmill, and also cattle and such other helps as would enable them to commence at once to improve their condition.

They claim, and we think with at least the appearance of truth, that their boundary as surveyed is not in accordance with the treaty lines. We recommend that an engineer of repute be employed to examine and report the facts.

They earnestly asked that they might be permitted to utilize the dead and fallen timber upon the reservation until such time as the survey and appraisal shall be made. As this will be of great help to them and the trees will otherwise be destroyed by fire, worms, and rot, we agreed to support this most reasonable request.

300 They also begged that they might have an agent, as this reservation is so far (80 miles or more) from the White Earth Agency.

We think the Red Lake Indians, if properly aided, will become self-supporting and useful citizens.

The Red Lake Reservation, which they cede to the United States, contains 3,260,000 acres. The number of Indians occupying the same is 1,168.

The boundaries of the diminished reservation, from which allotments to the Red Lake Chippewas are to be made, are as follows:

"Commencing at Thief River at a point on the dividing line between Marshall and Polk Counties, as designated on a map published by Rand, McNally & Co., of Chicago, in 1888; thence easterly to a point on the northwesterly shore of Upper Red Lake; thence along the northern shore of said lake to a point due north of a point 1 mile due east from the eastern end of the Lower Red Lake; thence southwesterly to a point on Hay Creek 1 mile from its mouth; thence due south to a point due east of a due westerly line which when extended will run between what is known as the most southerly sugar bush on Red Lake Road to White Earth, and north of what is called the "Big Marsh" to Clearwater River (said line being about 6 miles south of Red Lake); thence down Clearwater River to the southwesterly reservation line; thence along said line to the place of beginning (excepting the right to use in common all the waterways within the above described limits)."

This is larger than they will eventually require, but as there are swamps and other untillable lands therein, it can not be reduced until after survey and allotment shall be made.

White Earth Reservation, occupied by the Chippewas of the Mississippi, Pembinas, and Otter Tail Pillagers, contains 796,672 acres, of which they cede to the United States four townships of pine land, viz: Townships 143, 144, 145, and 146, range 37 west. Residing on this reservation are Chippewas of the Mississippi, 1,169; Otter Tail Pillagers, 657; Pembinas, 218.

The first council was held at White Earth July 17, and the last on July 29. As with the Red Lake Indians, they were suffering for want of food, owing to the loss of their crops by early and severe frosts the season before. All were strenuously opposed to entertaining any propositions until the provisions of article 9 of the treaty of September 30, 1854, made at La Pointe, Wis., was fulfilled, and a settlement had for the damages to their reservation near the headwaters of the Mississippi, caused by building the reservoir dams; provisions for an adjustment in each case was made by the Northwest Commission three years ago in negotiations with them and the Leech Lake Indians, which negotiations have not been acted upon by Congress.

In regard to the treaty of September 30, 1854, it was impossible for us to explain why its plain and unquestioned provisions had not been fulfilled. The Chippewas employed an agent and a delegation accompanied him to Washington some years ago and after urgently insisting upon a settlement, there was found due to them the sum of $118,400, which had accrued from balances that had been covered into the Treasury between the years 1843 and 1878. This amount has never been questioned as being due under the treaty stipulations, and

in the opinion of this commission should be included in regular estimates. We gave the most solemn promises that our best efforts would be given to secure justice in this case, believing that we but voiced the intent of the Government in so doing. After giving assurances that justice would be speedily done and that we would bring the attention of the department to those claims, the acceptance and signing of the propositions made was nearly unanimous.

The following will show that the Indians had been officially informed of the amount due them up to and including the
301 year 1878. (Two-thirds of this amount goes to the Chippewas of Lake Superior, and one-third to those of the Mississippi.)

OFFICE OF INDIAN AFFAIRS,
Washington, December 8, 1884.

SIR: I am in receipt of your letter dated the 29th ultimo, in which you state that four years ago you were called to this city to converse on matters concerning your reservation; that while here you were informed that there was due to your people the sum of $118,400; that said sum would be paid in annual installments; that $50,000 thereof was drawing interest, and that said interest would be paid to the Chippewas.

You want to know why these promises have not been kept, and that you be informed in brief what you are to expect, etc.

In reply I have to state that on the recommendation of this office, on the 5th day of April, 1880, a bill was introduced in Congress to authorize the Secretary of the Interior to fulfill certain treaty stipulations with the Chippewa Indians of Lake Superior and Mississippi. This bill proposed an appropriation of the sum of $118,406.29, being the total amount arising from balances of appropriations under treaties with said Indians and covered into the Treasury between the years 1843 and 1878, inclusive. And the aggregate difference between the coin value of payments made in currency during the years 1863, 1864, and the amounts due in coin by treaty stipulations with interest at 5 per cent per annum, from date of Treasury warrants to February 6, 1880.

Section 2 of this bill provided that of the above amounts $38,400.29 should be paid to the said Indians and that the remainder, $80,000, should remain in the Treasury to draw interest at 5 per cent, said interest to be paid annually per capita or expended for the benefit of the Chippewas, under the direction of the Secretary of the Interior.

This bill never became a law through the failure of Congress to take action, and this office has exhausted its endeavors to obtain the appropriation named.

Very respectfully,

H. PRICE, *Commissioner.*

AH-KE-WAIN-ZE,
Head Chief of Lac Courte D'Orielles.
(Care United States Indian Agent, La Pointe Agency, Wis.)

See also the speech of Hon. Jacob H. Stewart, of Minnesota, in the House of Representatives, delivered Monday, February 24, 1879, on the bill (H. R. 6471) making appropriations for civil expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes, as printed in the Congressional Record, March 1, 1879, under "Sundry civil appropriation bill." The speech referred to contains the report of the committee upon this subject.

Messengers are now out, sent by the Chippewas of Lake Superior to those of the Mississippi, inviting them to send delegates to meet in convention at Ashland, Wis., on January 11 next, for the purpose of employing claim agents to prosecute and collect the amount found due, to, and including the year 1878, as stated by the Indian Office, April 5, 1880, viz, $118,400, with interest to date at 5 per cent, $59,200; total $177,600.

The claim agents expect the Indians to allow them 15 per cent of the amount. It can but be detrimental to the Indians to be thus harassed, kept in suspense, and finally compelled to pay to others a large commmission in order to secure the payment of a just claim against the Government.

These Indians have an old sawmill, but for want of repairs it can not be used.

Their flouring mill, not being properly cared for, was burned a short time ago, but for want of repairs had not been running for several years. Consequently the Indians such as had grain have been compelled to go many miles to have it ground.

When in the settlements of the whites, to say nothing of the
302 expense and loss of time, they are subject to unavoidable temptations. Many have not teams and have to employ others to take their grain to the mills, and after paying transportation and toll, leaves but a moiety for their use. The Indians made special complaints in regard to the want of milling facilities. At their request, with the aid of Agent Schuler, we investigated the condition of their farms, and found about 5,000 acres seeded in wheat, oats, barley, and vegetables, but owing to the want of rain not more than half a crop will be grown. At least 2,500 acres heretofore cultivated lies fallow for the want of seed and teams.

Here, as well as at Red Lake, Rev. Mr. Peake rendered valuable services.

After completing our work at White Earth we went to Gull Lake, where we found a small band, numbering 277, belonging to the Chippewas of the Mississippi. Some of them had attended the councils at White Earth, and all seemed familiar with the propositions submitted to them. We, however, went through with the explanations in detail, and after consultation among themselves all signed the agreement. They promised to make their permanent home on the White Earth Reservation as soon as they should be furnished with means to enable them to cultivate the soil and to subsist until they can make a living. This agreement was concluded on the 5th of August.

We held the first council at Leech Lake August 8. We were received at this place with all the pomp and show the Indians could display. Guns were fired and every flag in the settlement was flying. A guard of honor, dressed in war feathers and decorated with paint, greeted us with open arms. We were informed that this guard was for our protection, especially to keep the Pillagers from giving us any personal annoyance. Faithfully did they perform their duty, not only by day but by night. No Indians were permitted to see us unless accompanied by a detail from this polite and considerate guard, which was master of the situation. The party that originated and organized this body, knowing the object of our mission from the copies of the act we had sent in advance, as well as from persons of their own band who had attended the councils at Red Lake and White Earth, were fully determined that no business should be transacted between the band and the commission until they should be satisfied that it had the authority to provide for the settlement of outstanding claims. They were polite and courteous, but were resolved to keep us, as well as the uncertain of their band, under the restraint of the guard. They felt that they had been grievously wronged.

After a few days we broke their lines, inducing the chiefs to speak in council who for several days had not been heard. Stormy debates took place in council, accompanied by threats, which afterwards, at the request of the chiefs, the commission directed be stricken from the minutes.

These Indians, even the most bitterly opposed, said that had we come empowered to adjust unsettled matters they would not have made any objections to the propositions, nor would they have detained us long. Enough, however, gave their consent as required in writing. Others said that they would assent when they saw a disposition on the part of the Government to right the wrongs they had suffered. We were kept there until August 22. We had to give a solemn promise with raised hands that we would to our utmost ability urge the immediate settlement of unadjusted claims.

303 On the 21st of August, 1817, the Pillager Indians at Leech Lake, Minn., ceded to the United States a tract of land bounded as follows:

Beginning at the south end of Otter Tail Lake; thence southerly on the boundary line between the Sioux and Chippewa Indians, to Long Prairie River; thence up said river to Crow Wing River; thence up Crow Wing River to Leaf River; thence up Leaf River to the head of said river; and thence in a direct line to the place of the beginning.

This tract contains nearly 700,000 acres, and was sold to the Government for about $15,000. The Pillagers parted with it, believing, as they were told, that it was for the occupancy of the Menomonee Indians, a tribe at peace with them as well as with the Sioux. For generations a fierce war had raged between these two last-named tribes. The Pillagers believed that if the friendly Menomonees were between the belligerents peace might follow. By the treaty of Oc-

tober 18, 1848, the United States ceded to the Menomonees the above-described tract in exchange for all their lands in the State of Wisconsin.

The Menomonees, manifesting a great unwillingness to remove west of the Mississippi, by treaty dated May 12, 1884, re-ceded to the United States the foregoing tract in exchange for a part of their old home in Wisconsin and the sum of $242,686, for which the Pillagers received less than $15,000. According to Indian reasoning the consideration stipulated was never paid; that is, the occupancy of said tract by the Menomonees, thus protecting them from the incursions of Sioux war parties.

The Pillagers, at the time of the cession, were told by the commissioners that the said tract would be held as Indian lands are usually held, and that their friends, the Menomonees, would occupy it. The commissioners were Isaac A. Verplank and Henry M. Rice. The Pillagers from the time that they heard that the tract was not to be occupied by the Menomonees, as stipulated, have to this day considered that they have been injuriously overreached. They have never ceased to complain of this, and never will until reparation shall be made. We can not too strongly urge that the Government cause this matter to be carefully investigated, and in some way allow the Pillagers what may be found to be in equity due them. Indians are not unreasonable when fairly dealt with, and as they are about starting out as citizens under this act, aid will be of greater benefit now than heretofore, and is more needful now than it can be at any future time.

As to the damage done by the overflow of the reservoir dams, the department is respectfully referred to the following communication:

[House of Representatives, Forty-eighth Congress, first session, Ex. Doc. No. 76]

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, December 19, 1883.

SIR: By a provision in the river and harbor act of June 14, 1880 (21 Stat., 193), the sum of $75,000 was appropriated for the reservoirs at the headwaters of the Mississippi River, to be used in the construction of a dam at Lake Winnebagoshish, with the proviso that all injuries occasioned to individuals by overflow of their lands shall be ascertained and determined by agreement, in accordance with the laws of Minnesota, and shall not exceed in the aggregate $5,000, etc.; and by a provision in the river and harbor act of March 3, 1881 (Id., 481), the sum of $150,000 was appropriated for reservoirs upon the headwaters of the Mississippi River and its tributaries, and the Secretary of the Interior is authorized and directed to ascertain what, if any, injury is occasioned to the rights of any friendly Indians occupying any Indian reservation by the construction of any of said dams, or the cutting or the removal of the trees or other materials

from any such reservation for the construction or erection of any of said dams, and to determine the amount of damages payable to such Indians therefor, which damages, when determined, to be paid by the United States, with the proviso that such damages shall not
304 exceed 10 per centum of the sums hereby and heretofore (act 1880, $75,000) appropriated for the construction of said reservoirs.

Under these provisions of law Messrs. A. Barnard, of Minneapolis, Thomas Simpson, of Winona, Minn., and Louis Morel, of this office, were designated by the department, on the 11th of August, 1881, as special agents to ascertain the injury occasioned to friendly Indians by the construction of the reservoirs at Lake Winnebagoshish and Leech Lake, and to determine the amount of damages payable to such friendly Indians as might suffer on account of the construction of said reservoirs; and on the 20th of August the necessary instructions were issued to said agents, defining their duties, and the manner of proceeding to ascertain and determine the damages resulting to friendly Indians.

On the 6th of October, 1881, these agents submitted their findings and award, which was submitted to the department on October 18, following, for consideration, and, if approved, to be forwarded to the Secretary of War for settlement under the act of 1881.

The injuries arising from the construction of these reservoirs and the assessments of damages to friendly Indians were considered by these agents and reported in separate schedules, one for Lake Winnebagoshish and the other for Leech Lake, being classified as (1) injuries to individual property, and (2) injuries to tribal property.

The damages were, in the aggregate, at Lake Winnebagoshish, assessed at $8,393.30, and those at Leech Lake, $7,073.60.

These valuations, amounting jointly to $15,466.90, were approved by the department and forwarded to the War Department, and the money was placed to the credit of the Interior Department for distribution under the award.

The Indians protested against this assessment as being entirely too small, and at one time there was danger of a serious outbreak, but the violence was prevented by the friends of the Indians, with the hope that the question of damages would be reconsidered.

These facts having come to the knowledge of the department, it was determined to appoint a new commission to assess the damages, and on December 23, 1882, you appointed and commissioned for that purpose General H. H. Sibley and William R. Marshall and Rev. J. A. Gilfillan, who were to serve without compensation other than their necessary expenses. Subsequently General Sibley, on account of ill health, resigned, and R. Blakeley, Esq., was appointed to fill his place.

I am now in receipt, by department reference, of the report of these gentlemen, dated the 4th instant, submitting in detail the result of their findings. They state that it was entirely out of the

question for the commission to arrive at a reasonable agreement with the Indians as to the amount of damages by the reason of the construction of the dams; and that the amount of land overflowed has been materially reduced, as indicated in letter of Major Allen. of October 24, 1883, the amount being only 46,920 acres, instead of 101,940 acres, as heretofore reported, and in the aggregate is divided as follows, viz:

Winnebagoshish reservoirs, 23,240 acres; Leech Lake reservoirs, 28,680 acres.

The commission make awards for timber cut, rock taken, and damages to industries, but none for land taken.

Their award is as follows, viz:

Lake Winnebagoshish and Cass Lake:	
Personal property	$1,936.50
Tribal property	3,649.58
	5,586.58
Leech Lake:	
Personal property	105.00
Tribal property	1,075.00
	1,180.00

White Earth and Mississippi Bands, pine cut, $3,272.10.

The commission estimate for these latter bands an annual damage for rice, at 10 cents per pound, $8,610, and for hay, at $28 per ton, $9,800; total, $18,410.

For the Indians at Lake Winnebagoshish and Cass Lake they estimate the annual damage as follows, viz:

Hay	$3,640.00
Loss of fish	4,350.00
Loss of cranberries	300.00
Loss of sugar	100.00
Total	8,390.00

305 The commission say that the Indians will be very materially damaged in their industries and will require permanent provision. The total damage awarded by the commission, outside of resultant damages, is as follows, viz:

Individual property	$2,041.50
Tribal property	7,996.68
Total	10,038.18

The total annual damage awarded by them is $26,800.

The estimate of the commission for annual damages for rice at 10 cents per pound and hay at $28 per ton would appear at first sight to be rather extravagant, but when we consider that over 46,000 acres

of land are taken from the Indians without any compensation whatever it is believed that the estimate is not too high.

There are funds now at the disposition of this department, under the act of 1881, sufficient to pay the damage awarded for individual and tribal property, $10,038.18, but as the Indians refused to accept the award, in this respect, of the former commission, which is some $5,000 greater than that of the present commission, they will hardly accept the latter unless an appropriation is made to pay the annual damages awarded by the latter commission.

In accordance with the award of the commission it will require $36,838.18 for present payment, of which amount, as before stated, $10,038.18 is available, leaving $26,800 to be provided for.

As the acts of 1880 and 1881 make provision for payment of present damages only and none for the payment of annual damages, I am of opinion that this sum for the present year should be treated as a deficiency and recommend that Congress be asked to attach an item to the deficiency bill, already submitted by this department, appropriating the sum of $26,800, and that annually hereafter an appropriation of $26,800 be made in order to carry out the award of the commission.

Very respectfully, your obedient servant,

H. PRICE, *Commissioner.*

The SECRETARY OF THE INTERIOR.

It appears by this that the award, amounting to $15,466.90, was without hesitation rejected by the Indians. Is it surprising that they should have done so when the United States engineer, Major Allen, reported that the number of acres overflowed amounted to 46,920, which overflow destroyed their gardens, their rice fields, their hay lands, their fish, and their graveyards? It is an annual and perpetual loss. The award did not allow 40 cents an acre for the land, to say nothing of the damages occasioned by the loss of their almost sole subsistence.

On December 22, 1882, a new commission, consisting of General and Ex-Governor William R. Marshall, Capt. R. Blakeley, and Rev. J. A. Gilfillan, was appointed—practical, thoroughgoing men in whose judgment everyone had confidence. After a careful and exhaustive examination these gentlemen estimated the annual damages at $26,800 and the damages to individual and tribal property at $10,038.18.

The Commissioner of Indian Affairs then approved of this award. He said:

"In accordance with the award of the commission it will require $36,838.18 for the present payment, of which amount, as before stated, $10,038.18 is available, leaving $26,800 to be provided for, and that annually thereafter an appropriation of $26,800 be made in order to carry out the award of the commission."

The Secretary of the Interior, in approving of the foregoing, says:

"No award is made by the commission for or on account of the land taken and occupied in the construction of the reservoirs."

By the fourth article of agreement made by the Northwest Indian Commission (not acted upon by Congress) on the part of the United States and the Pillager Indians, it was agreed that the United States would pay said Indians $150,000, which should be in full satisfaction for losses and damages sustained by them, one-third of said
306 sum to be paid to the Chippewas of the Mississippi and two-thirds to the Pillagers, etc., from which agreement they never heard until informed by us.

From information received on this subject this commission can not recommend a less award than the amount mentioned, viz, $150,000, with 5 per cent interest per annum to date, and $1.25 per acre for the overflowed lands. These Indians have absolutely ceded to the United States 46,920 acres, which can not be sold as provided in the act of January 14, 1889, for their benefit, as it is and must be reserved for the overflow caused by the reservoir dams.

From Leech Lake we went to Cass Lake, holding our first council there August 23 and the last of the 26th of the same month. As many of the Indians of this band attended all the councils at Leech Lake, all they required was that explanation should be made to those who were not present at the latter place. They in strong terms asked that unsettled matters be liquidated as soon as possible. All freely gave their assent and signatures to the propositions.

From there we went to the Lake Winnebagoshish Band. We had much trouble in assembling them, as they were out gathering wild rice. Our first council was held August 31 and the last September 2, but we were in almost constant session day and night, as they were anxious to return to their rice fields. Several of the chiefs had attended the councils at Leech Lake and seemed well informed of the object of our visit. The injury done them in building the reservoir dams was without doubt very great. Two or three of their burying grounds were so washed by the overflow that the remains of their buried dead were unearthed and scattered along the shore. This desecration but added poignancy to the sorrow caused by the loss of subsistence.

Here, as at Cass Lake, they felt deeply hurt that those who were in the greatest want—the old, the sick, and the helpless young—should have been compelled to *appear in person* at Leech Lake when their annuities were paid or go without them. This harmful practice could be easily avoided by paying to the representatives of such, with the approval of the chief, the amount due. These Indians, like those of Cass Lake, are destitute of aid from the Government, having no missionary, school, farmer, blacksmith, or physician. The Winnebagoshish Reservation is marked upon the map by township lines, which is erroneous, as the treaty fixes its line by natural boundaries beyond those shown by township lines. This has given much dissatisfaction, as whites have settled between the two lines and consequently upon the reservation, as the Indians claim. The matter should be adjusted. Every adult male of the band gave his assent to the agreement.

On September 5 we held a council with a part of the White Oak Point Indians at Payment Point, on the 6th at White Oak Point, and on the 7th near Grand Rapids. Most of these Indians showed such signs of dissipation and consequent degradation as would lead one to fear they were beyond the hope of improvement. They seem aware of their condition, and tremblingly asked that whisky might be kept from the county. They also asked that missionaries and school-teachers be sent them. They seemed like lost wards of the Government, who had fallen into the hands of their worst enemies, the whisky sellers. All present gave their signatures.

From the last point we sent our messengers to find the scattered members of other White Oak Point bands, and succeeded in gathering them at Kimberly, a water tank station on the Northern Pacific Railroad, where we held the first council September 19 and our last on the 23d. The two leading chiefs had attended the councils
307 at White Earth, and had made known to their people the object of our mission. We found these people healthy in body and mind, unusually bright, and careful of self. All were anxious to acquire land in severalty, and the young men were eager to find work. Their very appearance indicated a working and industrious class. They said they had been forced to look for subsistence outside of their reservation. Their bands numbered one hundred men. All except one signed the agreement.

On the 2d of October we met the Mille Lac Indians, and were with them until the close of the 5th, and almost constantly in council. Contrary to the general opinion, we found them intelligent, cleanly, and well behaved. Their neighboring white settlers gave them a good name. Some who had been on these borders for many years said they had never been molested in person or property by them. Upon this reservation there are a large number of whites, who have made claims thereon, and even many of these testified to the harmless conduct of the Indians. Their principal fault seems to lie in possessing lands that the white man wants.

This reservation was set aside for their use by treaty of February 22, 1855, and was guaranteed as their permanent home. By this treaty land was to be plowed and prepared for cultivation. As a sample of injustice to them we were told that the land had been plowed several miles north of their reservation, and not a foot for their use thereon. To satisfy ourselves of this, we visited the place designated (lots 1 and 2, section 13, township 44, range 28 west) and ascertained from the then occupant, a very respectable citizen by the name of Dinwiddie, that his farm embraced the improvement mentioned, which had been made before he purchased.

By the treaty of March 11, 1863, this reservation was ceded to the United States, but by a proviso in article 12 it was stipulated—

"That owing to the heretofore good conduct of the Mille Lac Indians they shall not be compelled to remove so long as they shall not in any way interfere with or in any manner molest the persons or property of the whites."

By article 4 of same treaty it was agreed that the United States should clear and stump and grub and break for the Mille Lac Band, upon said reservation, 70 acres of land, which confirmed the belief that they were not only permanently located, but had the sole occupancy of the reservation.

In the treaty of May 7, 1864, which was intended to supersede the one last alluded to, article 4 makes the same stipulation as to the breaking of 70 acres of land, and by article 12 a promise as to their living thereon, the same as provided by the treaty of March 11, 1863.

The Interior Department now holds that—

"The Mille Lac Indians have never forfeited their right of occupancy and still reside on the reservation."

But, notwithstanding this, white men have been permitted to rob them of their pine, and for years to settle upon their agricultural lands, and there to remain in quiet possession to this day to the great injury and fear of the Indians. Some of the whites had the shameless audacity to take from the Indians land the latter had, with much labor and perseverance, put into cultivation. Squatters are now settling upon this reservation, and the interest of the Indians ignored.

There are many persons upon the Mille Lac Reservation who went there believing that they had a right so to do. They were induced to believe so by the action of persons who not only sought
308 the rich pine forests thereon, but actually secured, as is believed, patents to many acres thereof. It is possible matters can be so arranged as to give in some way protection to the well intentioned but misled whites who have made homes upon this tract; but be that as it may, the question of rights should be settled at the earliest possible moment, for the greater the delay the more difficult will be its adjustment.

All present assented to the agreement and signed the same.

One council was held at Grand Marais, with a part of the Grand Portage Band, October 20. These Indians accompanied the commission to Grand Portage, where councils were held October 23, 24, and 25. At these councils the Indians gave very marked attention, and at the last council expressed themselves as fully understanding and fully satisfied with the terms of the act, and signed the article of agreement with much cheerfulness and unanimity. These Indians complain that white fishermen spread so many large nets near their reservation that the Indians are unable to procure a supply of fish for food.

Bois Forte and Vermillion councils were held November 9, 10, 11, and 12.

At the first council the Indians seemed timid and distrustful. Indeed, the Vermilion Lake and Net Lake parties seemed to distrust each other, and declined to enter into the discussion of the subject presented to them. Subsequently better councils prevailed, and the Indians announced that they should hereafter act as a unit. From

this time the discussion was entered into with freedom and cheerfulness, and finally resulted in their "touching the pen" with great solemnity and much formality.

These Indians have the best hunting grounds of any of the Chippewa bands; there being contiguous to them an immense tract of timber land over which the white man seldom passes. They seem willing to learn to till the soil, but ask for better facilities. When asked how they cultivated their potatoes, these men of the North say they drove a stake into the ground and pried up the earth, and then made it fine with their hands. Much of the lands on the Lake Superior Reservations is unfit for cultivation. And it is believed that if representatives from these bands can visit White Earth, many of them will cheerfully remove there. The Bois Forte Indians complain that they have been despoiled of a large amount of timber cut from their reservation, which is run down Little Fork River to the British possessions. We promised to call the attention of the department to this.

At Fond du Lac the first council was held November 18, and continued daily until and including November 21.

It will be seen by the proceedings that Nah-gah-nub, the head chief, did much of the talking. He is a very old man and not in his prime, physically or mentally, but is respected by all. Many of his band for want of work (the cutting of timber on this reservation having been suspended by order of the department) are in great danger of suffering during this winter and coming spring. Heretofore, while permitted to cut timber, they were well to do and contented.

Like all of the Mississippi bands, they feel greatly grieved at the long continued withholding of the money due them from the Government. Our positive assertions that justice should speedily be done, not only in this respect, but in the matter of a palpable error in the boundary lines of their reservation, induced them to listen attentively to the propositions submitted, and all touched the pen.

By the fourth article of treaty at La Pointe, September 30,
309 1854, it is stipulated, that the Fond du Lac Reservation shall embrace the following boundaries:

Beginning at an island in the St. Louis River, above Knife Portage, called by the Indians Paw-paw-sco-me-me-tig, running thence west to the boundary line heretofore described, thence north along said boundary line to the mouth of Savannah River, thence down the St. Louis River to the place of the beginning. And if said tract shall contain less than 100,000 acres, a strip of land shall be added on the south side thereof large enough to equal such deficiency.

Whoever was sent to make a survey of this reservation followed the last clause of the article, and by his survey limited the area to 92,346 acres, the north end of his survey line on the west not reaching within 12 miles of the mouth of the Savannah River, thus defrauding these Indians of over 100,000 acres, which lands were put

into the market and long ago disposed of by the United States; and for over a quarter of a century this injustice has been permitted to exist, a festering and deep-seated cause of complaint against the Government. The Indians at the time of the making of the treaty had the boundary lines definitely fixed, by natural lines to them unmistakable. They knew no more about acres than they did of the mariners' compass.

We had no hesitation in promising that the Government would speedily remedy this grave error.

As the various bands decided to take their allotments on their respective reservations, and have constructively done so, we told them that the $90,000 to be advanced and already appropriated would be paid pro rata, as soon after the approval of these negotiations by the President as should be practicable, but not later than the coming spring. The amount will be so small to be paid to each individual that it is not probable that any will elect to receive anything but money. As they are in the most destitute condition, and as we gave them to understand that the money would be so paid, we trust neither the Indians nor the commission will be disappointed in this.

The clause of the act of January 14, 1889, providing for the payment of the interest that may accrue on the permanent fund, was to us obscure is as much as it says "one-half of said interest shall be annually paid in cash in equal shares to the heads of families and guardians of orphan minors for their use, and one-fourth of said interest shall during the same period and with the like exception be annually paid in cash in equal shares per capita to all other classes of said Indians," etc., and as we could neither explain this to the Indians or comprehend it so as to give it such an interpretation as would do equal justice we promised the cash payment should be made per capita in equal shares.

Wherever we went the Indians expressed a desire that the Government would set aside a sufficient quantity of land upon each reservation for Government buildings, such as may be necessary for physician, blacksmith, farmer, carpenters, and for missionaries, traders, etc. We hope this will be done, and that order, as to the location and erection of all such buildings, will be enforced.

They also requested that upon each reservation a tract of pine land be reserved and held by the General Government, as might be necessary for their common use, and to be so held during the pleasure of the Secretary of the Interior. We earnestly commend this request.

They all earnestly plead for saw mills, cattle, agricultural and mechanical implements, which they must have or they can make no substantial progress. They must be assisted in breaking and fencing land, building houses, and with provisions, until they can sustain themselves. They are no longer tribal Indians, but citizens
310 at present helpless, and must be treated as such. The saw-mills are of the utmost importance, for at present nearly all

live in single-room wigwams or huts, where privacy is unknown, without or within. To return young boys and girls to such abodes who have been educated in refined and chaste society at Government schools in the East will be destructive to their morals and a loss of the expense incurred.

Although the Indians have decided to take their allotments upon their reservations, it will not be well, in many cases, they should do so, and we believe that if rightly cared for, many can be induced in the near future to remove to White Earth. For this reason it may not be prudent to urge the making of individual allotments upon other than White Earth and Red Lake Reservations at present.

According to the established custom, none but chiefs and headmen speak in council, but at various places others conferred with us by day and by night, and many as individuals expressed a desire to remove to White Earth as soon as provisions can be made for their subsistence. Their removal should be encouraged, as it will be of the greatest benefit to the Indians and to the State. It is now impracticable to make allotments upon any save the White Earth Reservations, and will be until the others shall be surveyed. All but the White Earth and a part of the Red Lake Reservation, are heavily timbered and unfit for cultivation without a heavy expenditure of money and labor, and at best can not for many years be profitably farmed; and it is doubtful, now that the game has nearly all disappeared, if for several years they can raise enough for self-support.

As 10 acres of maple timber for sugar making is a large tract for one family, they requested that, to accommodate as many as possible, 10 acres only, by legal subdivisions, should be allowed each family now occupying the same. We promised to ask that this most sensible request be granted.

As the four townships of pine land ceded to the Government, of the White Earth Reservation, have been surveyed, and as the timber is liable to be stolen or burned, the Indians desire an early estimate and sale of the same.

On some of the reservations there are swamps of valuable cedar and tamarac which can not be cultivated or sold for agricultural purposes, and the land is liable to be denuded of the timber by trespassers. The Indians request that such land be withheld from sale under the preemption laws, and that the Secretary of the Interior be authorized to cause the same to be sold in such manner and upon such terms as to him shall seem best for their interest.

It is reported and believed that upon the Grand Portage, Bois Forte, and Vermilion Reservations there are valuable mines, and that if such are discovered after examination they shall be disposed of by the Secretary of the Interior so as to best subserve the interests of the Indians. This is in accordance with their request.

A further appropriation for surveys and examination of lands will be necessary. The pine ceded is estimated by various parties to reach in value from twenty-five to fifty millions of dollars. A small

appropriation can be used for the purpose of defraying the expenses of Indians from a distance who may desire or can be persuaded to visit the White Earth Reservation with the expectation of removing thereto before allotments shall be taken or confirmed elsewhere.

Provision should be made for a mill, furnishing cattle, and farming implements, etc., to enable the Red Lake Indians to commence farming and building houses the coming spring.

311 The head chief of the Pillagers, Flatmouth, has for several years resided in Canada, his sister, Ruth Flatmouth, is in her brother's absence the acknowledged Queen, or leader of the Pillagers; two other women of hereditary right acted as leaders of their respective bands, and at the request of the chiefs were permitted to sign the agreements.

In taking the census, which was a tedious work, we took unusual pains to see that all rightful persons were included, and in every case not only submitted it to the chiefs and leading persons of the tribe but secured their presence and assistance. After having explained to them the importance of accuracy, they fully and earnestly gave their best efforts to insure its correctness.

United States Agent B. P. Schuler accompanied us to each and every band within his jurisdiction, and gave us most valuable official as well as personal assistance.

M. A. Leahy, United States agent at Ashland, joined the commission at the Fond du Lac Reservation and rendered us material aid.

Father Aloysius, O. S. B., was with us at Red Lake, White Earth, and Leech Lake, and at all times used his influence in the interest of our work.

In no instance did be encourage opposition from the traders or white men, husbands of Indian women; on the contrary all readily gave such assistance as they could. We feel warranted in saying that there was not an Indian who was not fully informed of the purport of our mission, and that the assent of all would have been obtained had authority been given us to put in the way of adjustment unsettled claims.

In the expenditures incident to the long distance traveled, the length of time consumed, the number of Indians we were compelled to subsist, and the large force we had to employ as messengers in taking the census and aiding in securing the signatures of such only as were authorized to sign the agreements, and making in duplicate said agreements, and in triplicate the census rolls, we have had constantly in view the injunction of "observing and practicing the utmost economy."

Among the Indians are many well-educated mixed-bloods, who will be of great assistance in leading the unenlightened onward.

In Michigan, Wisconsin, and elsewhere we know there are persons of Chippewa blood that will claim, and no doubt many are entitled to, the benefits under the recent negotiations, who were, from their

higher education and associations, forced to separate from their bands and seek a living and more congenial society elsewhere, who, now that they can hold lands in severalty and come under the protection of the law, will return to their old homes; for such consideration should be given hereafter. We think, however, that the safe rule to be observed will be to consult the chiefs and head men as to the justice of their claims.

To enable the Indians to commence their new life in such a way as will, *without loss of time*, encourage them to follow all industrial pursuits possible, it is evident a sum should be advanced by the Government sufficient to enable them, with their labor, to put as much land under cultivation and build as many homes as practicable. At each and every place, either in open council or in private consultation, they were urgent in requesting such aids as are indispensable to white men. Especially, all not pagans expressed a decided preference for mission schools, deeming it essential that the morals of their children, as well as their education, should receive careful attention.

If this shall be done and the Indians are properly guided, the most happy results may be expected to follow.

Give the Indian justice, kind and patient treatment, and
312 his confidence can be gained, and by a wise hand he can be started on the road to a useful life. He is naturally trustful, with strong attachments for those he believes to be his friends. To his enemies and to those he distrusts, a different nature will be unmistakably visible.

In carrying out this new departure, many details must be considered. Of the final result of this most beneficent measure, properly put into execution, there can not be a doubt.

Respectfully,

HENRY M. RICE.
MARTIN MARTY.
JOSEPH B. WHITING.

Hon. T. J. MORGAN,
Commissioner of Indian Affairs,
Interior Department, Washington, D. C.

Schedule showing the number of acres in the Chippewa Reservations in the State of Minnesota

Bois Fort	107,509
Deer Creek	23,040
Fond du Lac	92,346
Grand Portage	51,840
Leech Lake	94,440
Mille Lac	61,014
Red Lake and Pembina bands	3,200,000
Vermillion Lake	1,080
White Earth	796,672
Winnebagoshish, Cass Lake, and White Oak Point	329,000
Total	4,747,931

Name of band	Number in each band				Number [illegible] ing
	Adult males	Adult females	Minors	Total	
Red Lake and Pembina Chippewas	386	422	578	1,386	[illegible]
Mississippi Chippewas	934	854	1,414	3,002	[illegible]
Pillager and Lake Winnebagoshish	600	649	959	2,208	[illegible]
Grand Portage Chippewas	73	85	136	294	[illegible]
Bois Forte Chippewas	228	224	291	743	[illegible]
Fond du Lac Chippewas	157	187	327	671	[illegible]
Total	2,178			8,304	[illegible]

* * * * * * *

313 FIRST AND SECOND COUNCIL AT RED LAKE

JUNE 29, 1889.

The Indians having assembled, the members of the commission proceeded to the school building in which the council was to be held, at 2 p. m., and were introduced by B. P. Schuler, Indian agent, after which the meeting was called to order by the chairman.

Prayer was then offered by Bishop Marty.

314 Mr. RICE. We are commissioned by the President of the United States to lay before you an act passed by the last Congress entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota." The only request we have to make is that in listening to us you will throw behind you all the stories you have heard.

Bishop MARTY. My dear friends, fourteen years ago I left the white people to go among the Indians and devote myself entirely to their welfare. It has long been my desire to come and see the Chippewas, of whom I have heard a great many good things. Father Aloysius had invited me many a time to come and see you, and I was going to do so, when all at once I got an invitation from the President of the United States to come to the Chippewas.

The President invited me to come to you and lay before you a measure which has been adopted for your benefit by the Great Council of the United States. The white people of the United States are now about 60,000,000. I am glad to assure you that the great majority of these people are your friends and desire nothing else but your welfare. Now, the Great Council of this nation has to provide for the welfare of the white people as well as of the Indians. In this particular case the Great Council had before it two different bills. There was one bill presented by the white people who live here in the neighborhood of the Indians, who want to get their lands so as to make use of them, as they are now lying useless. This bill was framed perhaps more for the benefit of the white people than for the benefit of the Indians; but there was, at the same time, another bill before the Great Council of the nation, which had been framed by the very best friends of the Indians, who came to see them about three years ago. So the Great Council of the nation had these two

papers; they took this report of the commission that negotiated with you three years ago and corrected in the other bill whatever was injurious to the Indians, and that bill which they consented to three years ago was even, in several points, improved upon and made better than that one was. Later on, when we talk about several points, I will show you those points in which the old bill was made better in this new bill.

As for my part, I can only say that I would not have come here to present this bill to you if I was not convinced that it was the very best thing that you can do for yourselves and for your children. I know that the Great Spirit would punish me if I would ever say or do anything which would not be for the benefit of the Chippewas. It is time that something should be done to improve your condition, which is getting worse from year to year. You are here surrounded by your lands, which are rich and full of good things, but you can not make use of them. You are just like the man would be on the shore of that lake; the lake is full of good fish, but he has no hook and no net, and has nothing to take the fish out with, so he starves for want of something to eat. So the Great Council invites you now to dispose of those lands which you do not need; the proceeds from those lands to be used to improve the other lands which you will keep, so as to make a good use of them. This bill is like the net or the fish hook to take the fish out, so the Indians will have plenty and be well off. As it is, your pine lands are burning; a great many pines are stolen; your property is getting less all the time and you have no benefit from it at all. But we have been appointed to help you select the very best lands on the reservation for yourselves to keep forever. We must see to it that every one of you gets a good home, and when the lands which you have no use for have been sold, that money will be used to give you houses and farming implements and schools, and to make you a happy and prosperous people. You will find that yourselves when you hear this bill read, so I will ask Commissioner Whiting to read this bill for you, and hope you will pay attention and try to understand and remember it as well as you can.

Commissioner WHITING. Men of Red Lake, the distinguished chairman of the commission has requested me to read to you the law under which we come among you.

Commissioner Whiting then proceeded to carefully read the act, phrase by phrase being interpreted as read into the Chippewa language by Paul H. Beaulieu, interpreter for the commission.

Mr. RICE. I thank you for listening so long and so attentively to what has been read. As this is of so much importance to you, it is necessary to take time to consider every point. We are instructed to see that the act be carefully read to you; that accurate interpretations are made of this and of all other communications passing between you and ourselves, and that each and every one of those numerous provisions are explained to your entire satisfaction and understanding.

As the act is very long, we propose to give you until Monday morning at 9 o'clock to consider its contents. We will then listen to you as patiently as you have to us, and if there are any parts which you do not understand we hope you will question us upon them and we will answer you fully, explaining everything in detail, so you will have all the time you desire to become informed upon the business which we were instructed to bring before you. That is all to-day.

315 SECOND COUNCIL AT RED LAKE

MONDAY, *July 1, 1889.*

The council was called to order at 1.35 p. m. by the chairman, after which prayer was offered by Bishop Marty.

The chairman then informed the Indians that the commissioners were ready to hear them, upon which the head chief, through the interpreter, said:

"Although we gathered together in council yesterday, we did not complete our deliberations. I was not present at the time; I trusted to a renewal of the explanations."

The chairman then gave at some length the explanations required, after which the Indians retired for further deliberations.

THIRD COUNCIL AT RED LAKE

WEDNESDAY, *July 3, 1889.*

The council was called to order by the chairman at 1 p. m., after which Bishop Marty offered prayer.

Mr. RICE. We told you that we would give you all the time necessary to deliberate. You have fixed three different times to meet us; you did not keep any of the appointments. We hope you had a good reason for not doing so. We sent for you because you did not come, and we are now ready to hear anything that you have to say.

NE-GAUN-AH-QUOD. I stand up before you as the spokesman of the band, and to show you that my assertion is correct, I proclaim it by a rising vote. [At this time about two-thirds of the Indians present were standing.] I am selected by all the bands pertaining to this lake; not only those who are here, but all the Indians pertaining to this locality, to be their spokesman.

I look to the Master of Life and thank Him for this meeting. I shall now make known to you the result of our deliberations. We have deliberated over the matter that you have laid before us, and I shall make known to you now our answer. Your mission here is a failure. We never wish hereafter to sign any instrument where anything is blind. We never signed an instrument in which we did not have a voice; we wish to be understood as wanting a hearing in any arrangements that are made for our welfare. We shall each return to our respective homes, but we return as strong friends as we met; no hard feelings will arise out of this transaction. I call again

upon the Master of Life, thanking Him for this meeting and the expression of our feelings. That is all.

Mr. RICE. My friends, we have heard the answer that you wish us to send back to the President. For the last ten years, in consequence of your poverty, the Government of the United States has sent you over $10,000 every year as a present. You have made a mistake in saying that you have had no voice in the making of these negotiations. Three years ago you made your wishes known; they were all reported to the President, who considered carefully everything that was said. The messsage that you now send back we hardly think will please him. There are not burning trees enough around the Capital to blind his eyes with smoke. Your old and young men around here are idle; we wish to ask you now, as men, how much longer you think the Great Father will wait, and continue to see the only substance you have destroyed by fire. Among the white men, if a man burns his own house, he is punished; when your pine is gone you will have nothing left. Is the President going to wait longer, while your pine is being destroyed, and then be compelled to support you? This is a question for you to answer among yourselves.

Commissioner WHITING. Men of the reservation: Assembled on the shores of one of the most beautiful lakes of the great Northwest to consider these questions, we ought to throw behind us everything except our desire to talk about what is for your good. This is perhaps the most important hour of your existence. The President sent us here because he believed we were your friends, and would not only strive to explain everything and do justice to you, but he believed also that we would not permit you to do an unwise thing. You have wealth here, but it is fleeing from you. All along the track we came lie the blackened pine, falling to the ground, groaning out its dissent that it should be thus destroyed. From this burnt district the moose and the deer flee for safety. Each year these great fires are driving your game away farther and farther, and each year there is less for them to subsist upon. If the moose and the deer and the other game is destroyed by fire, what are you to live upon? Only the lake with its fish is left for you. Unless something is done for you now, five years hence this vast body of timber will be destroyed. The moose and the deer will be gone from you and you will eke out a miserable existence.

You occupy to-day a position in which you are to choose
316 whether you go down or whether you rise to a better life. You must not forget that the President acts toward you with all the light that civilization has given him. He knows that in order to become self-supporting, to till the ground and raise such things as you need as civilized people, you must be assisted and guided, and he is willing to assist and guide you to prosperity. But if you reject his kind offers, if you cast in his face the propositions he sends to you for your good, what can you expect from him? I am exceedingly sorry, as a member of this commission which is sent to you by the

President, that you do not consider them more favorably. I think I have a right to say to you that it is believed that this commission is the last one the President will think best to send to you. Without annuities, with your game destroyed by the burning of the forests, with your pine timber blackened and burnt until it falls to the earth, what are you to do? The President of the United States feels the utmost kindness and love for this people and wishes to do everything in his power for their improvement. He leaves you free to your own choice. Will you go backward or will you go forward and see in the future your children happy and prosperous, able to care for you in your old age, and with horses and cattle and wagons and mills—everything that civilization will bring to you? So, with only blackness and sorrow and distress on the one hand, you may on the other hand go upward and onward in the bright sunlight of future prosperity. I have done.

Bishop MARTY. I am afraid that you are injuring yourselves. Last winter you had nothing to live upon. If the missionary had not given you work by having you cut logs for school buildings, a good many of you would have starved. We now have these logs cut, and we were going to put up other buildings this summer, but we were under the supposition that you were willing to help yourselves and go ahead. If, however, you do not want to listen to us and do not wish to take advice, but want to remain as you are, there will be no use in putting up any buildings for you, or for your children. These men may be proud and self-willed and think that they can do what they please, but I wish they would remember their women and children who will, in consequence, be suffering. The man who just gave us that answer from you, called upon the Master of Life both at the beginning and at the end of his speech, but you call upon the Master of Life only when you do what is right. If you should kill yourselves and your children the Master of Life will not receive you in the heavens.

Now, everyone is to speak and to act for himself, and to everyone is responsible to God for what he does.

GAY-BAY-GAW-BOW (addressing the Indians). Men of Red Lake: You have heard the commissioners speak; you have listened attentively to it; I am very glad that you have listened attentively. They are words of great weight, but although they are words of weight, and although we must respect them as we respect our Great Father, we do not believe it is to our interest to comply with their request. We call upon the Master of Life to see the righteousness of our intentions, and God will help us because we are in the right. Our wishes should be consulted before we are compelled to sign without a voice in the matter. We have made up our minds, and I hope none will be so weak as to retract his words.

NE-GAUN-AH-QUOD. I wish to make a reply in reference to the burning of the pine for your information; it is not the Indians who set fire to the pines that are burning, it is the whites. There are so many of

them going about the country unknown to us. It is not to be laid to the Indians, and our Great Father ought not to allow any of his white children to come on the reservation here and set fire to the pines.

If an Indian had been guilty of going to a white man's country and causing so much ruin and havoc the Indian would have been punished, but we never count it. We are a peaceable tribe and never allow such a thing to excite us, although we feel that it is wrong. When some of our young men have occasion to visit the white settlements, as soon as they get there they are received with blows. We never did anything in revenge. We take it very patiently. We can not go off this reservation without a pass from the agent or overseer; why can not the rule be applied both ways? When a white man wants to go onto the reservation, why should he not get a pass from the Great Fathers? It is impossible for me to leave the reservation; I can not go about and have not liberty to do so.

MAY-DWAY-GON-ON-IND. When I went down to St. Paul lately, in passing Mrs. Warren's place, there was a fire raging to the west of the road. The woman told me that there was not an Indian in the country; that the fire had been set by settlers. We never set fire to our pine.

WAY-ME-TE-GO-ZHEENCE. We are blamed for anything that is destroyed, on what we consider our own, this reservation. We are never the cause of the destruction of any pine on this reservation. We are surrounded by whites; they keep thieving from us and setting fires. We are not to blame for the destruction of any property on the reservation. I go around the reservation here very often. I can not see anybody that belongs to these bands who is the cause of the destruction of the pine by fire, and I know very well that they have nothing to do with the getting out of logs; that is, the lumber
317 camps, and we can control neither the men nor the fires. I refer to this log cutting in only one sense; I think where the log cutting happens the Indians are under the impression that they still own the land—that the men are cutting on this reservation. That is what we believe. We speak this fact knowingly; we do not guess; we do not conjecture this thing; we know they are cutting this side of the line. Good heartedness and good feeling towards the whites compel us to bear all these things in patience.

Mr. RICE. Are there any others to speak? [Receiving no response, he continued.] I was never more surprised in my life. We expected when we came here with the words of the President, and explained them to you fully, also telling you that if there was anything which you did not understand we would explain it again; you have not made a reply to a single proposition that has been made to you. You evidently have not considered the propositions. If you have, you have trifled with them; you have trifled with us. All that you have told us is to take back the words of the President and throw them in his face; I can assure you that we will do it, and you must take the consequences.

Bishop MARTY. My friends, I can not believe in my heart that all those who are present wish to offend us or the President, and therefore we want those who are of the better mind to come forward and to speak. Until this time only those have spoken who do not want to hear any reason, but there must be some who are more reasonable. They need not be afraid to speak out; we will stand by them, and the President will stand by them. Every one who is over 18 years has the same right, and his voice is as important as any other, and therefore we expect the young men who have a future before them to make use of this opportunity and to come out and speak like men.

The matter we have laid before you is very simple.

The first thing—now I want you all to pay attention—the first thing is that you are to choose for yourselves the best lands you can avail yourselves of, and you are not obliged to go on those lands at once; you can remain where you are, and those lands will be written down for you under your name, and they will belong to you and to your children forever. When a white man takes land he is obliged to go on it and cultivate the land himself; otherwise he can not have it. But the Indian has only to choose the land, and if he does so he will have it whether he cultivates it or not. So this is the first thing. You take for yourselves the land that you need.

The second thing is, that the rest of the land which is now being used up, stolen from you, or burnt off will be taken hold of by the Great Father for his children. He will sell your pine at the highest price he can get for it, and he will hold that money for fifty years and pay you the interest yearly. At the end of that time he will divide that principal sum among you and your children. The Great Father would be willing to give you that money at once if you could only make good use of it, but he hopes that after fifty years your children will be able to receive the money and do well with it.

Now, let any one of you tell me if there is anything wrong with those two points, in either the first or the second. Can you make use of your lands? Have you any way of selling your pine lands to advantage; I ask the old chief if he has any way of selling these pines to advantage?

AH-NUH-NE-AY-GE-SHIG. My friends, the Indians of Red Lake, have a very good reputation; they are called very good men. We never intend to lay any obstacles in the way of our Great Father, from whom we have received annuities for fifteen years. My friends, I sit right here; I can see my property going to waste; they are stealing from me on every side; I never received a cent for it. I do not wish to make you feel badly or feel sorry for the failure of your mission; what hurts you hurts us also. I utter these words. I am not delegated to utter them; our young men are our counselors; I am not allowed to speak. The same position which you hold here as commissioners our young men hold in our behalf; they are our counselors. I shake hands with you with a very friendly feeling, but I shake hands with you for the last time on this occasion. The old man was selected to make the last talk for us here.

Bishop MARTY. Every one is to speak for himself; we have to get the signature of every Indian. We want to know as to each one whether he is reasonable or not, and those who give a reasonable answer will be helped by the President, and those who are not reasonable need not expect any help hereafter. The Great Father does not want one Indian to speak for another any more. Every Indian must speak for himself; and if he speaks right he will be rewarded, and if he speaks wrong he will be punished. I want every one to give an answer for himself.

PUS-SE-NOUS. My friends, the act that was passed by the whites, without our consultation, has been thoroughly digested by our people; we have given you an answer.

Bishop MARTY. Now, this is wrong; the very first thing that you say is wrong. There was a commission here three years ago, and you gave your consent to that commission; is that so, or is it not so?

(Pus-se-nous assents.)

Bishop MARTY. You were asked three years ago if you gave
318 your consent. Now, we bring the reply of the Great Father to your answer, and we bring the reply to each one of you individually.

PUS-SE-NOUS. I understand, and we are delegated to say, that this is the wish of all the bands.

Bishop MARTY. What is the wish?

PUS-SE-NOUS. There are none here who are owned by anyone; each one owns himself and is master of his own ideas. We own the land in common; when a visit is made by us to the Great Father we will tell him what land we will cede.

Bishop MARTY. The chiefs have no right to speak in the name of the others; all these Indians want to go to Washington. Now, the Great Father wants all these Indians to speak and to sign their names, or to withhold their names. It is impossible that you should all go to Washington, and therefore the Great Father has sent us here to ask each and every one of you what you will do. If two-thirds of you say "Yes," then it shall be done. Now, you must certainly think this matter over once more. It is too important for you and your children to end it in this way, therefore we will give you time once more to talk among yourselves, and to-morrow at noon you will meet us again, and that will be the final answer, but if anyone wants to ask anything now he can do so.

WAY-ME-TE-GO-ZHEENCE. There is one thing that we can not get over; we want you to understand that it is not the Indians who set the fires in the pines.

Bishop MARTY. The Indians do not do it, but they are the ones who suffer from it, and the Great Father wants to help you to sell the pine before it is all gone.

MAY-DWAY-GON-ON-IND (first asking and obtaining of the Indians present permission to address the commission). I generally express myself very freely. It is generally my wish to talk loud so everybody can hear; it is not anger that makes me talk loud. You know that

we have been at peace all the time; we never do anything to wrong each other. We have fought with the Sioux, and so have you fought with the Sioux. Was it the bishop who asked the question just now?

(The interpreter tells him that it was.)

MAY-DWAY-GON-ON-IND (continuing). I have said nothing in these councils; I have been a listener; I have heard all that they said in deliberating over this matter, and it has met my approval. If you wish my ideas on this matter, I will tell you just what they are. I said that I was opposed to having the allotments made to us; I do not look with favor on the allotment plan.

Bishop MARTY. Let me answer that they do not have to go on the land now; the lands are not now surveyed. We are only to reserve so much land for you, so that when your children grow up there will be plenty for all of you. I am glad that you have spoken now, because I see that you do not understand the treaty at all.

MAY-DWAY-GON-ON-IND. I say to those who are now in here, I will express my own views on this matter. I will never consent to the allotment plan. I wish to lay out a reservation here, where we can remain with our bands forever. I mean to stand fast to this, my decision, whenever the Government feels inclined to pay for the lands.

Bishop MARTY. That is what the Government wants. You are to have as much land as you can use, you and your children. We three men here have been sent for that purpose, and only what you don't want is then to be sold to your advantage. I see now that you think just what we think, that we think the same way, and until now we did not know it, because you did not talk. We talked all the time. As soon as we begin to talk we see that we understand each other very well. You may be sure that I did not come to take any land away from you. I want you to have plenty of it, and your children after you, and instead of losing all your pine I want you to make good use of it. Are you not in need of money? Is there any Indian here who will refuse when money is offered him? [The Indians laugh.] I think it is much better to change your pine into money than to have it burned up. You must reserve plenty of that pine, so as to have building material for yourselves and your children hereafter, but that pine which you and your children can not make any use of you want to change into money and put in your pockets.

MAY-DWAY-GON-ON-IND. I forgot to state to you that in all business transactions among the whites the gray-headed men are never ignored; that business of the greatest importance is not left to a rabble of young men; when it comes to business of importance like this young men are not to be selected.

Bishop MARTY. Then why did you not talk earlier in the conference? You may be dead next year, and these young men will suffer afterwards. Now, let any one of you talk and we will listen. As soon as we talk together it can be seen that we are of the same mind.

AH-NUH-NE-AY-GE-SHIG. My friends, we understand all your meanings; we are not foolish; we understand the whole thing. We

wish to bring out another objection; the money that you wish to have as a fund, which will originate the interest, whatever belongs to the Red Lake Indians we do not want consolidated with the
319 money of any other band. It is on the same principle that you have property; you get the worth of your property; you are not going to share with a neighbor what you get for your own property. That is the way we want to do with this. We are very much obliged to you for waking us up, so that you find our objections. At the present time the feeling is that it is the best to adjourn, and under this understanding the minds are made up—maybe the minds of the people will change after this explanation, and I move that we adjourn.

Mr. RICE. I am much pleased with what has been said during the last few minutes. You are now coming to the point. We want you to state your objections in detail, so that we can put them down and lay them before the President. It is due to the President and the Great Council that you should make known your objections, so it can be seen what they are. When you speak to a man and he turns his back upon you, you do not know what to make of it, but when he makes a respectful reply, you can not be displeased although you may be disappointed. So out of our regard for you and our respect for the President, we wish to take back a respectful answer to his words. It seems to me that you have now begun aright, so if you come to the conclusion to send back an answer in detail, we will very gladly take it. We have been here but a short time, and it may be that we misunderstand each other, but we hope that when we part we will separate as friends. If it is your pleasure now to adjourn, we will do so. If you wish to sleep over this and wish to meet us again, it will be our pleasure to see you.

Bishop MARTY. If you wish, we will meet you to-morrow at the same hour that we met you to-day.

Mr. RICE. We forgot that to-morrow is the Fourth of July, perhaps you would not want to meet.

MAY-DWAY-GON-ON-IND. My friends (you will not forget that we use that appellation in sincerity), as there is no amusement whatever to-morrow we might as well meet. You blame us for not keeping our engagements, but none of us have watches, and we could not tell the time if we had.

Mr. RICE. In the meantime, if our great hunter gets any game, we will ask our interpreter to inform you.

Commissioner WHITING. To-morrow is the great day of the white man, when he goes out with his wife and children, and they renew their love for each other and their country. We hope that you will be as happy to-morrow as the white man is.

NAY-YAY-TAH-WUB. Will the hunter hunt to-day?

Mr. RICE. Yes.

Council then adjourned to July 4, 1889.

FOURTH COUNCIL AT RED LAKE

JULY 4, 1889.

The council was called to order by the chairman at 2.30 p. m., after which prayer was offered by Bishop Marty:

Mr. RICE. We expect to-day to hear your objections to the propositions made to you by the Government. After hearing you it may be possible that to a certain extent we can make them plainer; therefore let us proceed, in an orderly manner, with the sole view of seeking the right. I know that your chiefs, your old and young men, wish for the best, and we do also; so, after all, we are united, and in giving our time and attention to the accomplishing of the object for which we are here we trust we shall come to a favorable conclusion.

MAY-DWAY-GON-ON-IND (after addressing the Indians). Last summer and the summer before that, that the man we call the "Ground Squirrel" [meaning Mr. Nelson] was antagonizing the people of this reservation. We can not conjecture what his motives may be in antagonizing innocent people that had nothing to do with him. That is one of our objections; we don't feel pleased to see a man like Mr. Nelson antagonize any of our interests. Another objection that we have to the act is the allotment part; that allotments should be made to us in severalty. We wish that any land that we possess should be not only for our own benefit, but for our posterity, our grandchildren hereafter. And then another objection that we have to the act is the consolidation of our interests, the interests of the Red Lake Indians. We think that we should own in common everything that pertains to us; with those that are suffering in poverty, just the same as we are; that is a serious objection. We have heard from you the explanation of how the money was to be expended; we have not a clear insight into it. That is all I have to say at present.

Mr. RICE. In regard to the act to which you refer, I will try to explain why this misunderstanding has arisen. That bill was introduced two years ago, into Congress. That bill was amended in the committee and was reported and examined. It went to the Senate and was by it referred to the Committee on Indian Affairs; Mr.
Dawes, of whom you have heard and who visited White
320 Earth two years ago, was chairman. The Senate amended
the bill; it went back with those amendments to the House; the House refused to accede to some of them; the House returned it to the Senate and asked for a conference committee, and an agreement was arrived at by the joint committee, after which the House and the Senate also agreed. The bill then went to the President and he, in connection with his Cabinet, examined it; they examined it in every part, concluded that every interest you had was properly guarded, and the President approved it. I mention this that you may see the great time taken to consider this bill, and the great care with which it was perfected.

Now, if the Great Council of the Nation and the President would consume so much time in considering what was best for you, we

think that you can devote a little time, also, in investigating what they did.

In regard to the consolidation, I shall speak from a business point of view. Your reservation, it is true, is much larger than any of the others. The reservations of the Leech Lake, Winnebagoshish, and Cass Lake Indians are known to you, and you know well how they are situated. There is another reservation that goes nearly around theirs; which belongs to the Chippewas of the Mississippi. Many of your people have visited these reservations. I have done so. The lumbermen have visited them often. There are very large and valuable tracts of pine land upon them; they are situated upon navigable streams near markets, to which the logs can be very easily sent to be manufactured. The opinion of many white people who are interested in the lumber business is that they are the most valuable reservations to them all. They have already been partially surveyed. If these negotiations are successful, all that need be done on these reservations is to have the survey completed, an examination made, and they can soon be put into the market; from the proceeds will come the first money that you will receive. So you see that it is not always the largest piece of land which is worth the most money.

The Fond du Lac Reservation I was familiar with many years ago; it contains a hundred thousand acres. It is upon the St. Louis River, as you all know; the Northern Pacific Railroad runs through it; another road is being built from Duluth to Knife Portage; it is adjacent to that great city, and consequently much more valuable than a reservation that is far away. There were valuable tracts of pine upon it, although I understand some of it has been cut; how much I do not know.

The Grand Portage Reservation, lying upon the Great Lake, I visited two years ago. I do not think much of its value, unless it contains minerals.

The Bois Forte Reservation contains a hundred thousand acres. That I never saw, but I know that it lies near the great iron range, and that if it has iron upon it, it may be valuable.

The Mille Lac Reservation has large and valuable tracts of pine upon it, but I do not wish to say anything about that, for there is a controversy; as to its termination we have no knowledge. It is my opinion however, and the opinion of my associates here, besides that of a good many other men who are familiar with these reservations, that by this consolidation you will be benefited. Now, as to the allotments: In your treaty three years ago you said you did not want to have allotments; you wished for the present to be together. At White Earth they have taken allotments; one here and one there, scattered over the reservation. Under this act the Pillagers, the White Oak Point, and the Mille Lac Indians are allowed to do the same.

Now, I want you to bear in mind that some of these reservations have been surveyed, so there is nothing to be deducted from what is due you to pay for these surveys. Your reservation has not been surveyed, consequently it would be impossible to make the individual allotments that will be made to others; so that if we progress so far, and are able to agree, although the authority is given us, we do not ask you to sign the paper until we have your full and free consent to the reservation that will be marked out to you. All that is desired by the Government is that you will agree to what is best for yourselves. I have now given, to the best of my ability, the explanations required by your chief. We are ready to answer any other questions that you may ask.

Bishop MARTY. I wish to say in the first place that neither of the two gentlemen with me, or myself, are the kind of men to be used as an instrument by Mr. Nelson. Senator Rice has been your friend for forty years; he is thinking of the time when he will go before the Judge of all men to give an account of what he has done. It is only six weeks since I have had the honor and the pleasure of knowing Mr. Rice, but from the first moment we met we became very good friends. He found that I was a friend of the Indians, and I found that he was a friend of the Indians. When, four weeks later, we became acquainted with this gentleman (indicating Commissioner Whiting), we found that he was also a strong and fast friend of the Indian.

We three have been appointed by the Great Father, who is not now in office; but you were told three years ago that he was a great friend of the Indians, and that is why we were appointed, and we are known as the Indian's friends through the whole country. The new President, who might have set us aside when he came into office, confirmed us in office instead, because he too is a friend of
321 yours. If an act of Congress had been draughted by an enemy of the Indian and had been intended for your ruin, we would rather die than bring it to you, but because we are convinced that if this act is carried out properly it will be for your benefit in every way we recommend it to you.

We have been together for weeks now and have examined one point after another, and we want each of you, young men and old men, to understand it as well as we do. It seems to me that the objections have been answered; if there is anything else, it may be brought up.

In regard to putting the money all together, I should be very sorry to have it get out among the whites that the Chippewas do not want to help one another. There was a time when you thought the Sioux were not a very good people, but I must say to their credit that they help one another. They hold their lands in common, and I was told that the poor people are generally more ready to help one another than the rich people. The old chief said that the Chippewas were all poor, and, if so, they ought all to help each other; if they are against each other they will always be poor. We are all children of

one Father, who is in heaven, and He wants His children to love one another and help one another, and if we do so, He will bless and give us plenty; if we quarrel, He will leave us poor and let us starve and die. I want everyone to think of this and then do what is pleasing to the Father, who is in heaven.

NAH-GAUN-E-GWON-ABE. My friends, I have a few words to say in reply. It is very true that it is our duty to love each other—our own race and tribe—but we do not hate each other; we love each other. It is for our own interest that we are opposed to the consolidation of the fund. Should I be guilty of any wrong I do not want anything taken from another's share to pay for what I have done. Those on the other reservations have no interests on this reservation. The people you see here are the only ones who have an interest in this reservation.

We don't want to be considered as willing to steal from those who have smaller reservations; we do not want any other Indians to think that we are pilfering from the value of their reservations. Whether it is large or whether it is small, the value of this reservation is only for these people here. If they are foolish to sell it away for nothing, it is their misfortune, but we want anything that accrues from our sales for the benefit of ourselves.

For four years past we have heard, year after year, that the "Ground Squirrel" was using a weapon against us; we have been living in fear all this time; we are still living in fear; that is the reason that we do not come out and answer the questions that you propound to us. We have listened with great patience to the speeches of the other Indians; we have not said a word—my brother and myself, Moose Dung—and I concluded to express the feeling of these people, as we understand it.

Bishop MARTY. We do not say that the other Indians have a right on this reservation, which is yours alone. Now, this reservation being yours, you must do with it as your advantage dictates, and for the advantage of the whole Chippewa Nation. I am a messenger of the Great Spirit, and I will say here what I would say anywhere: If one man has a little more than another, he is bound to help his neighbor. If you have a little more and help your neighbors with it, God will bless you for it. Neither you nor your children will lose anything by it. I have been following that rule now for over fifty years, and I am very well off. I have not been wanting for a single thing all my life. That is the first lesson of Christianity, and I understand that a good many of you are Christians. Each one of you has to consider what he will do for his neighbor. Now, I will ask Leading Father whether he has anything to say against what I have said; if he has, he is welcome to say it and I am glad to hear it; or, if the one who made the same objection yesterday wants to say anything, let him do so. The old chief is a minister, I believe, and has a church in his village. Is not that the doctrine which he preaches there?

I say to the Chippewas what I said to the Sioux fourteen years ago, "If you are good Christians, you will become rich, and if you are not you will become poorer and poorer, and at last starve and die off."

NE-GAUN-AH-QUOD. My friends, I shall tell you the circumstances that surround me here. I am a scholar; I get my knowledge from the Master of Life; that is where I get my lessons, and I am very happy to hear your remarks. When I pray I pray that I may reach that life that I am taught we shall go to if we live well. I also encourage learning and school-teaching. That is the reason that I would not make any remarks derogatory of what you have said, on account of those who are ignorant and do not know what all this means. You will see in your travels more ignorance; I do not wish to lead you into a wrong track. Do you expect to succeed with those ignorant and foolish people?

Bishop MARTY. We may succeed with some and with others not.

NE-GAUN-AH-QUOD. I referred to the Pillagers. I have been there twice since the snow left the ground. I know their feelings. The Pillagers are a very foolish tribe; they feel brave. We are talking over the matter that we may show you our position. I am talking, I think, as a Christian man, and you [indicating
322 Bishop Marty] are talking as a Christian bishop. You will go and talk this way to the Pillagers, and they will laugh at me for saying that I like to hear such talk. Your talk is pleasant to me, because it indicates the principles I follow; but I don't like to meet the Pillagers and have them say that I have heard a man talk what was not sensible.

Bishop MARTY. You should set a good example to the other Indians, and that is why we came here first. We knew these Indians were honest and upright; Mr. Rice said so yesterday. I want every one to speak his mind just as this man has done.

NE-GAUN-AH-QUOD. By observation over there among the Pillagers you will find that I have spoken the truth; I know what they will do.

Bishop MARTY. It is our duty to talk with them all and try to make them do what is right. The Sioux were pretty wild when I first went among them, but now they listen to me like children to their father. You must bear in mind that there is no time to lose; that every day you are getting poorer. There is now only half as much planted on this reservation as there was last year, and even if you should get a good crop you will not have next winter more than you had last winter. There is the money in the Treasury of the United States under this act, to be spent for your benefit. If you need help, you can get it from this, but if you don't sign this agreement there is no help for you. For this reason I told you yesterday to think of your women and children.

PUS-SE-NAUS. I want to ask a question on my own responsibility. My friends, you see I am still in my natural state; I have not taken up religion yet, as it is shown by my blanket; do you think that what you preach about the Great Spirit will last forever?

Bishop MARTY. It will.

PUS-SE-NAUS. That is all that I ask.

Bishop MARTY. We do not expect the old men to take up land and become farmers; they must have help; they can not help themselves. They would like to work, but can not. But the young men must go to work, take up land as the whites do, and year after year make it larger. But they can not do so if they have no live stock or farming implements; when they get such things they can help themselves. This plan will give them a start.

AH-NUH-NE-AY-GE-SHIG. There was no answer made to what I asked yesterday.

Bishop MARTY. You said you would adjourn, so you got no answer.

AH-NUH-NE-AY-GE-SHIG. A piece of land that we had reserved has been sold off the reservation; that also is an obstacle in the way of the arrangement. We think we should get pay for it. Was the Great Father asked to sell that piece of land? It was never asked for; they simply took possession. The great difficulty arises from lumbermen from the place near where our old friend comes from cutting inside of our reservation. We know it and have never received any pay for it. Whenever any of our young men are guilty of a theft, even on this reservation, I blush for shame. Could you inform our Great Father about these logging operations if he does not know it? You of course are not to blame for any trespass. The people will be much pleased if you will tell our Great Father.

Bishop MARTY. We will tell him.

NAH-GAUN-E-GWON-ABE. There are two persons here who were at the making of the Red Lake treaty. Mr. Rice knows about the cession, and this interpreter was interpreter then. Poverty prevented our representing this matter to the Great Father. We should have given information about the depredations committed on our lands long ago. From the time they began to pay annuities to us, it has dwindled down to a less sum year by year; the last annuity was very much smaller than the first one. We consider that the Government did not keep its agreement, according to our understanding. There is lots of money yet due the Red Lake Indians which they should have in their hands. We have not been paid a sufficient sum of money for the cutting of logs upon our land by the lumber camps, let alone the thefts and depredations that are committed along the line; we will never see a cent of that. I was the man selected by the bands to go around the line of the reservation, and you would be surprised to see the amount of depredation that has been committed. I was selected to and did show the line to the surveyors. The Indians define the line of the cession, starting from the mouth of the Thief River, thence to Rice River; right then straight to Little Birch Lake. The Government surveys do not comply with that line; somebody has cut it off. Whose knife was used to slice off that piece of land?

To see if it was in compliance with our understanding of it when we ceded it, I went with the surveyors, and I wished to know how

much they were stealing from us, according to our understanding of the treaty. The surveyor that I was with on the reservation boundaries told me not to get mad, when he was cutting a slice off all the time I was with him. "I am following this survey for a purpose; after awhile there will be a resurvey, and we will fix the boundary." That is what the surveyor told me. When we started that line by compass, he told me that the line was to run 2½ miles north of the road which crosses Rice River, 2 miles east on the White Earth Road. That is what the surveyor told me. I followed my line. I was very much surprised where he
323 crossed—on the road from Fosston. It was near the junction of the road to the White Earth and the road to Fosston. It is a fact that that land we considered belonged to the Red Lake Indians. I don't state that we claim this on account of the depredations which have been committed on the land.

GAY-BAY-GAH-BOW. I want to know if you would give a reply to what Leading Father has said.

Mr. RICE. What has been said by him has been taken down and will be sent to Washington for consideration; that is all we can say, because we know nothing as to the truth of the statements that have been made.

GAY-BAY-GAH-BOW. Can you spare time to explain, for the benefit of the new-comers here, how the money is to be paid? There are a good many Indians who have just come in and want to hear what has been said about it.

Mr. RICE. I will first state that should the Indians of any other band commit depredations, no money will be taken from your portion to pay for it. We have to take a census to ascertain how much money is to come to each Indian. The money will be divided in Washington, and sent from there to the different bands; if any band has committed depredations, the damages will be deducted from its share; so you see, in that respect, you are not consolidated. There was a census taken two years ago of all the bands, and according to it (and it was very nearly correct as to the present number), you will receive out of the $90,000, already appropriated for that purpose, every man, woman, and child, about $9 in money. When the sales of your lands shall have yielded $2,000,000, that will add $100,000, which will about double the amount each individual will get in some way. What you do not receive in cash will be spent in your midst in making improvements, which will give work to your young men, so that the money will reach your pockets, and employment is what you require more than anything else. "An idle head is the devil's workshop."

In framing this act the theory was that you would need more money at the end of five years than you do now. The first year you can cultivate but a small piece of ground, and will consequently require less means. As the size of your fields increased you will want cattle, horses, and farming implements. The act, as you see, is arranged to meet your increasing wants. As to the amount which will be eventually received, none but the Great Spirit can tell. A

the end of fifty years, whatever may be in the Treasury, and it will be an immense sum, will be divided among you.

The missionaries also are prepared to expend large sums here in making improvements, which will employ a great many people. You will remember that the bishop told you the other day, that money would be expended by him for new buildings, as soon as the matter of these negotiations was decided.

Bishop MARTY. And it is not your money which will be so spent, but that of the good people who have visited you.

MAY-DWAY-GON-ON-IND. (after addressing a few words to the Indians). We must not be hasty in this matter. If we have taken up the time in talking about the depredations committed, it is because we wish to bring them before you for consideration. If you do not find our objections well founded, if you do not find it worth while to consider that they have weight, we will leave it to you. Let us not close this in a hurry, and let us not act on it at the present time; we will deliberate upon it and come to a conclusion.

MIS-CO-GE-SHIG-WABE. The words of the chief have fallen with favor on my ears; I take this pipe, and make a comparison; we are called upon to deliberate upon something that is useful not what is bad. That is all I have to say.

Mr. RICE. We are pleased with what has been said by you here to-day; yesterday we were under the impression that you were not seriously considering the grave matter laid before you. Now that you are manifesting a disposition to do so in earnest, we will give you time to deliberate. We shall expect to meet you here to-morrow morning at 9 o'clock. I am glad to say to you that our hunter succeeded in killing a moose yesterday, and it will be given to you to-night.

FIFTH COUNCIL AT RED LAKE

JULY 5, 1889.

The council was opened with prayer by the bishop.

SHAW-WUN-AH-CUNIG-ISH-KUNG. My friends, I salute you all, and also the Indians. We wish to ask a question, although we have asked a great many, about our line running from Thief River directly south; Moose Dung knows it was established from Thief River to Rice River; and then went from there to Elk River; that is where the line was established. The line was extended from the headwaters of the Rice River, then to Elk River, and then to what we call Little Birch Lake, then to the headwaters of the Black River, and then from the head of the Black River, down that river to its junction with the Red Lake River; that is the boundary line that was established by Moose Dung.

Commissioner WHITING. When?

324 SHAW-WUN-AH-CUNIG-ISH-KUNG. During the time they were making the cession in 1863, at the crossing of the Red Lake River, and we repeated the words when we went down to Washington as a delegation; at that time we never found out that the line had been altered. There was a payment made there, near the junction

of the Red Lake and Clearwater Rivers, near the place called a grove, that extends into the prairie. There was only one trader allowed there, and he was a licensed trader. We traded there because it was the only place we were allowed to trade. We think that is the line according to the treaty made. Also, at the place where the lumbering operations are carried on on the Clearwater River, we think they are working inside the reservation, because we have failed to find out who ceded that section of country. When one desires to buy, the question is generally asked, "Who does this property belong to?" One man does not say to another, whether or not he owns the property, will you sell this? If they had tried to find the owner of that land, they would have found him here. We claim that that land is still ours. Our signatures do not appear on any paper as to the sale of those lands. We want to know who ceded those lands, and in what State they are.

When I went to Washington I went to see a big lumberman [the interpreter states that the speaker means Mr. T. B. Walker]; that man there [indicating] accompanied me; we asked him about the ownership of the soil where he was lumbering, and his reply was that it had been bought from the President of the United States. We were furnished $100 by Mr. Walker to make the trip to Washington.

My friends, when you get to Washington do not bring my name to notice. When the Indians, who can not keep anything secret, went to Washington they mentioned my name.

When we went there we brought this to the President's notice; he said he did not know that anybody was lumbering there. We told the President his name, and he said: "I did not know he was cutting any lumber there." The interpreter who was there then is here now. The President told me that that must be on the reservation.

Bishop MARTY. All these things are being taken down by the secretary, as was done yesterday, and will be forwarded to Washington. Our present business is different, and that is what we wish to talk about.

SHAW-WUN-AH-CUNIG-ISH-KUNG. Why does the President object to seeing us about this matter, this bargain that it is proposed to make? The person selling is generally called, and the bargain made with the most interested; that is what the white man does.

Bishop MARTY. There are about three hundred men here who would have to go to Washington, which would cost more than the lumber Mr. Walker cut. You have not money to throw away traveling to Washington.

SHAW-WUN-AH-CUNIG-ISH-KUNG. The Indian generally accepts the bargain offered. My friends, we do not want to make you feel sorry; but we find it is a serious matter to negotiate with Americans. There is $10,000 of a payment which is still due us out of a transaction with white men to whom we listened. The man next to the President—the Secretary of the Interior—I asked him about this money, and he said the money must have taken the right direction, that it must be

in the possession of the Commissioner of Indian Affairs; we were told they would use that money shortly. The Secretary said if the Commissioner of Indian Affairs had used the money it would be replaced.

Although it is seldom I get money, when I do I take good care of it and make good use of it; but I will not talk any more, because you keep smiling.

Bishop MARTY. You went to Washington on that trip and yet you did not succeed.

SHAW-WUN-AH-CUNIG-ISH-KUNG. Some of those here saw the good results of my going there.

Bishop MARTY. There will be a good deal more distributed if you accept what the President now sends. It is easier for three men to come here than for three hundred men to go to Washington. All men who are eighteen years old, or over, have a voice in this matter, and should speak. For three or four days we have only heard men who, like ourselves, are old; it is time we heard the younger men; they have the same right, and greater interest in the matter; they will live longer; they should not lose time, but come forward and act.

Commissioner WHITING. I want to disabuse your mind of one idea, and that is that white men always see each other in transacting business; they send their trusted agents.

WAY-WAY. I salute you all. I stand here as the mouthpiece of the chiefs, like this other man. It is not essential that every man should have a voice in this council. It was announced that no man should antagonize the feelings that were to be promulgated in this council. Now, I want to ask a question: Were you sent by the Great Father to make this request of us? I wish you would not answer me until I finish my speech. Do you state the truth when you say to me that our Great Father sent you here?

We know how much land there is, and its condition; we know the size of the reservation; we know that the lumbermen are working inside of the line, and also farmers; there are many things which come inside the line of the reservation which can be compared to the works of the devil, and I am unable to estimate the amount of the damage done by these things. You see how tall I am. If I should stand in the midst of the money, of the value of the damages, what had been stolen from us, it would go over my head. That is why I can not come to a conclusion about the papers you present. I am now working to arrive at the amount taken from our reservation. If I wanted to sell my land, I would look at the pile of money, and see if it was an equivalent. When a white man wishes to buy, he makes specifications of everything; that is the reason that I don't want to accept your propositions. I love my reservation very much; I don't want to sell it, and am making estimates of the amount of the depredations committed. Will you help me in this work? It will then be the same as if I saw my Great Father. These are the reasons that I would not accept your propositions, even if you came three or four times. We wish you to show that you are in sympathy

with us by trying to redress our wrongs, and helping us to find out the amount of depredations.

Mr. RICE. "There are none so blind as those who will not see; there are none so deaf as those who will not hear." If there are any here who wish to proceed to business, we are ready to meet them, but we have not come thus far to listen to words that have nothing to do with the mission upon which we are sent. You send a young man, when you pretend you want to know if we come with the authority of the President. There [holding it up] is the commission signed by the President of the United States. Do you believe that he sent us here to trifle with you, or that you will be permitted to trifle with us? We have been very patient with and are always ready to listen to you, but when you talk about matters having no relation to this business, I, for one, will not listen.

Now, we wish you to weigh your words well; we came here to serve you, but if you are not ready to listen, and will not send back a respectful answer to the President, all we have to do is to return and tell him that the Indians of Red Lake would not listen to his words.

In view of your having been ready to sell your lands three years ago without ready money, and your now refusing it when offered, what can we think of you?

SHAW-WUN-AH-CUNIG-ISH-KUNG. We don't lay the blame on the Great Father; he did not know anything about this cutting of timber.

WAY-WAY. I shake hands with you all. This is the way it appears to the Red Lake Indian—he draws a line this way [indicating on the table with his hands]; inside of that line there is pine land. You say the President sent you; we understand that the President who is not now in office sent you. We wish to meet the commissioners of the new President. It would be well if the new President approved of your appointment; it would be stronger; it looks to us as though what the former President does is of no validity; that is all.

Mr. RICE. We know now and have known for some time that those who are not your friends have been putting these words into your ears. I do not know that we are doing justice to your present Great Father in saying anything on this subject. Here is a letter sent by his authority [holding it up], dated the last of May, sending the paper signed by the President who has just gone out. All these questions have been taken down to be sent to the Great Father, who will ask if he sent us to meet men or to meet those who expressed themselves like children. If he finds there are not enough wise men on your reservation to manage it and to meet his agents properly he will conclude that you are not capable of caring for yourselves; that he will have to do so for you and treat you as children.

SHAW-WUN-AH-CUNIG-ISH-KUNG. My friends, I do not feel that I am guilty of anything bad, or that I have anything to be ashamed of; I do not see, from the past, anything on the hands of the Red Lake

Indians of which they need be ashamed—either my ancestors or myself. So I do not think we are like children. Our record is as white as bleached cotton. Toward the west you will find the Indians who acted like children and murdered the whites.

Mr. Rice. I said that your words were like those of children. I have been familiar with you for many years and know you well.

Commissioner Whiting. Friends, I fear you do not understand the situation. The distinguished gentleman at the head of this commission was selected to come to you because he was known all over this broad land as your friend. At this time, when he can well afford to sit at his home, surrounded by all the comforts that civilization can bring, he has, at the urgent request of the Great Father, consented to come to you. Are you not going to receive him properly? If you throw back to him the words of the Great Father, who do you think will approach you? No other man lives to-day who so well knows your wants, or who carries for you so big a heart. Are you going to reject him? Do not believe that he will again encounter the fatigues of this journey in your behalf. Consider well what you do.

Bishop Marty. It is sad to find the Indians guided by their enemies instead of their friends. It is easy to lead them wrongly, and difficult to lead them right. For the whites and the Indians I have the heart of a father. It is my calling which made me
326 all those days have patience with you, but I can well understand that a gentleman like Mr. Rice would not like it when two young men like these ask if we are commissioned to come here. But that impudence did not originate with them.

The old men here say they must be the leaders of this people, because they are old and have gray hairs; but the question is whether the young men will listen to these old men, most of whom have never been off this reservation and seen nothing of the world, or whether they will listen to the Great Father, who will tell them only what is for their good. Those who do not want to listen are free not to do so, but let them not insult those who have been sent to you. We will not keep them longer this evening, but to-morrow morning at 9 o'clock let those who wish to accept our propositions come here; the others may stay away. We will give them one more day.

SIXTH COUNCIL AT RED LAKE

July 6, 1889.

This was the largest council held here up to this date, all interests on the reservation being represented.

The council was opened with prayer by Bishop Marty.

Mr. Rice. We are pleased to see so many here this morning, and hope that we have now a clearer perception of the important duties before us than we have heretofore had. Also, that not a word will be uttered to-day which can give offense to another.

The council is open, and we are prepared to hear what you have to say.

MAY-DWAY-GON-ON-IND. My words will be few. The others will express their feelings, after which I will follow. It is good and wise that you should refer to the Master of Life. Mr. Rice, our friend, has a very great name all over the country. I heard of him when I was a comparatively young man; and these gentlemen with him are men of note, of whom we have before heard.

NAH-GAUN-E-GWON-ABE. My friends, I salute you. You have not yet heard me speak relative to your propositions. I trust that the Master of Life will instill into me the words it is proper I should utter. It is the habit of men to ponder well before they come to an agreement in a matter as essential to their welfare as this is. If a man is hungry, he must rely on his gun and take good aim. It is wrong to act on the impulse of the moment; one has to ponder for himself to come to a right conclusion. We, as ignorant people, have crooked guns; even if we take sight over them we miss the mark. We are trying to straighten our guns, and under these circumstances we beg for patience.

I-EEN-GE-GWON-ABE. I am very happy that this meeting has taken place. It pleases the Master of Life that we should meet our Father. I hope we shall respect each other's feelings and come to an understanding. That is all.

MAYS-CO-CO-NO-YAY. I have not heretofore spoken, but have been a close listener. I look favorably on what you have said about each other's feelings, so nothing can arise to mar this discussion. That is all.

WAH-BAUN-E-QUAY-AWSH. My gun is certainly crooked, but I think with perseverance I can straighten it to-day. It is important that the respect due each other be strictly maintained. That is all.

AH-NUH-NE-AY-GE-SHIG. I salute the commission. This is an auspicious day, and looks favorably to our coming to an understanding. Let the chiefs talk; I shall follow the words of my chief.

MAY-DWAY-GON-ON-IND. Now, my friends, I am going to talk to you, after talking to the Indians [addressing them]. My friends, it is well to meet the commission understandingly. You can not be blamed, on account of your ignorance, for taking different positions. For my part, I am getting aged; I see that I shall be called upon by the Master of Life to deliver an account of myself. I can not sacrifice your interests on account of my feelings. At my age, I must do as my fathers have done: I must look to my grandchildren and their children's grandchildren; I must look after the benefit of all. I shall be dead when you receive the benefits of this work. If it pleases the Master of Life that this should be a blessing to us it will be because we follow the advice of those who are sent to us, and who say they are our special friends. I do not want to hide anything; I want to give a fair expression of my views. I want to reserve enough land here, if the commissioners will consent and the arrangement is con-

cluded. If not, we must persevere and try to gain our point. It is to our interest to do so, as, if we make a mistake, it is for a lifetime. I will ask you to be patient. We are willing to make an arrangement, but we must be very careful and make no mistake. Speak respectfully to the commission. Let nothing mar our intercourse. I beg that of you.

[Addressing the commissioners]: My friends, I salute you and also our other friends sitting here. This property under discussion, called Red Lake, is my property. These persons whom you see before you are my children. They own this place the same as I own it. My friends, I ask that we reserve the whole of the lake as ours and our grandchildren hereafter.

327 It is our wish that there be no consolidation, but that whatever we get here we should alone get. That we should receive, solely, the profits of our reservation. We want an expression of your views again. We don't wish that your mission here should be a failure. We wish it to be a success. We wish to hear once more about receiving ourselves the proceeds of our own land.

Mr. RICE. I do not know that I can say anything more than has been said here before. We certainly have not come here to do injustice to the Indians. This commission believe that your rights are amply protected by the carrying out of the provisions of this act.

It will cost a great deal of money to survey your reservation, the cost of which is to come out of the sales of the lands. We have it in history that you have not occupied this territory very long. This was not always your home; all the Chippewas came from the East. You were in the lead, and conquered your enemies before you. You took the country, piece by piece, until you reached the Great Lakes, and then you continued your progress westward until you arrived at the Red River of the North. You were then consolidated. You owned your country in common. At the treaty made at Prairie du Chien in 1825, the councils then held, having in them representatives of every band from here to and beyond the Great Lakes; you then, as a consolidated people, marked out the boundary between yourselves and other tribes, commencing at the Chippewa River in Wisconsin, then northward and westerly to the Mississippi River, and thence to the mouth of the Goose River on the Red River. You were then a consolidated people, as your old men here will remember. The fathers of those now here claimed at one time Leech Lake and all the surrounding region. It would take too long to explain to you how the divisions among you arose, but we know it all. Your Great Father and the Great Council in Washington took all these matters into consideration, and concluded that in this act they were doing justice to you, not only as bands but as individuals. They believed also that this arrangement would allay all jealousies among your people if you were all treated alike. Your old treaties were looked over. The treaty of 1863 was examined, and it was found that your annuities had expired.

This is the only proposition ever made to you which guarantees your security, definitely fixing what shall belong to you and your children, and when you retire at night you will know that your home can not be disturbed.

I am afraid you may not have understood this word "consolidation" in its true meaning. It does not give the Indians of other bands any right here; it does not give you any right upon their property. The money will be divided in Washington, according to the census, and then sent to the reservations. The only object the Government had in view was to do equal justice to all, and as time goes on and you see the working of the system under this act you will perceive the wisdom of your Great Father in sending it to you; you will all be pleased; you will all be satisfied.

You must consider carefully the subject of the reservation to be made, and we will then talk it over and see if we can agree. You sell nothing and part with nothing until that is settled. You must not, of course, expect to keep all your reservation; you can not keep your bread and eat it at the same time. You may think that you ought to have what we consider too much, and that what we consider is enough is too small; so we must talk it over, calmly, like men, until we can come to a conclusion that will not only satisfy your want but will also satisfy the Government, who is instructed to be liberal with you, as we are inclined to be; but that territory, which is now and always will be useless to you, you might as well part with and avoid a repetition of the difficulties between yourselves and the whites.

Two years ago Congress passed an act by which it was decided that you should all take allotments in severalty. It applies not only to this reservation but to all in the United States. That act provides that after the President shall notify you you shall select your land, 160 acres for the head of a family, 80 acres for a single person who is of age, and 40 acres for a minor. He does not issue that order to all the Indians at the same time, but so that it shall apply only to certain bands, and its issuance depends on their condition. After he issues the order, if you do not yourselves secure the allotments, he appoints agents to make them, which you are compelled to accept whether you like them or not. You can readily see how much pleasanter it will be to take what you want than to have forced upon you what you do not wish. If you accept this act, it does away with all the hardships which might overtake you under the act of which I have been speaking. All the elements in the question before you were well considered for years before the Great Council took action. As so much time has been consumed, I suggest that you give proper attention to this great question.

MIS-CO-GE-SHIG-WABE. We wish to strike the line from the junction of the Thief River and Red Lake River. We want also to understand about the allotments that are to be at one side of the lake. It is time we understood about the allotments to be made. We have (the young men) not said anything yet, but we have to know about that. We will soon arrive at a conclusion if we go to work.

328 MAY-DWAY-GON-ON-IND. My friends, let us remember there are too many interests to make it proper to jump at a conclusion. Let us not be hasty.

NAH-GAUN-E-GWON-ABE. My friends, you remember that I remarked that we were going to have all interests taken care of. We ask that you will adjourn for a little while so we may come to an understanding among ourselves, which we guaranty we will do.

Mr. RICE. We consent most cheerfully to the request made by your chief, and we hope that by 2 o'clock you will have settled this matter between yourselves. This is the most important point of all, and we do not wish to hurry you, but trust you will be prompt.

NAH-GAUN-E-GWON-ABE. We are deliberating with a good heart, but I am sorry to say that the man who is issuing rations is always changing. If you knew him better you would select another man to issue rations. We are hungry while we are deliberating.

Mr. RICE. As we all feel more cheerful to-day, we will hope that his heart has improved—is larger than heretofore, and if he don't do better we will follow your suggestion.

PUS-NE-NAUS (addressing the Indians). If there were many people coming together from different sections after the same thing; if one of them had a dish which was very sweet, which he called the others to taste, and each one as he tasted would say, "How good that is," it would be like our meeting the commissioners. We have all made a mistake, but now when we meet the commissioners we find the dish they have to offer us is very sweet, and we will like it.

SEVENTH COUNCIL AT RED LAKE (AFTERNOON SESSION), JULY 6, 1898

The council was opened with prayer by Bishop Marty.

Mr. RICE. The council will please come to order.

It is proper that those who live at a distance should come forward first and represent their wishes regarding the reservation. We want them to mark out the piece that they want, and the number of families they have.

Interpreter BLAULIEU. Moose Dung has forty-two families in his band. The chief this side the lake has eighty-three families.

Mr. RICE. There are forty-two families which want land on Thief River.

I-EEN-GE-GWON-ABE. My selection is on Thief River. We wish to place before you an outline of what we, in our estimation, ought to have. We have arranged matters between ourselves and will submit the question to you.

MAY-DWAY-GON-ON-IND. My friends, I shall endeavor to talk to you now, although I am a little old, about the price of the pine which you said would not be sold for less than $3 per thousand feet. I don't like the price, about the amount that will be paid to each individual per capita—$9—why can't you make it $10? The boys have drawn the lines of what they think will be the proper reservation for them to retain. They have made it include some pines, because

they are thinking of their posterity—of their grandchildren, and of those who will live after them—their great-grandchildren; we think they should be provided for.

It is our wish that the children may be educated so that they may take care of themselves; it is our sincere wish that our children, our grandchildren, and our great-grandchildren should have the advantage of learning from books; that they should know how to read and write. Another thing, these men of prayers, and the other man of prayers—two different sects—they are the kind that we like here, the two denominations. We believe that that is the only way by which our children will rise from ignorance and poverty to prosperity, so they can live as the whites live.

My friends, when you addressed us the first time my eyes were very large, my ears were open very widely, I understood everything that you said from the time that you began. I made up my mind that you were men of no common character. I made up my mind that you were men who know how to pity the poor, and to be considerate in your dealings. I myself, who have been raised a pagan, and don't know anything about religion, still am a believer. I am afraid of Almighty God when I do anything. I am afraid I shall do wrong; I live in constant fear of Him. You certainly will not tell anything but the facts, because we are under the guidance of one Spirit, and certainly the lawmakers who are near our Great Father, and our Great Father himself, certainly can not make up their minds to misrepresent things to us.

My friends, I accept all your propositions. You especially as chairman (looking towards Mr. Rice), I address you. I accept the propositions you have made me. My friends, you stand in the same light—the bishop and our other friend there—we know that you do not misrepresent what you say to us here.

We wish to guaranty to our posterity some security; that is why we demand the reservation we have outlined on that paper. It is not greediness that influences us. This tribe is growing year by year,
328 and we think it is our duty to protect those who come after us.

We know the character of our country here. There are only meadows in certain places; there are trees we would get our fuel from. All these things do not grow together, so the tract must be made larger so as to combine all the things we want. We want the reservation we now select to last ourselves and our children forever. I shall touch the pen with the understanding that all you have said to us is the truth; that you respect the truth and the words of our Great Father. And in the meantime we want you to remember the occasion that has made us stand here, pleading for the future.

My friends, you have come here as commissioners, vested with great powers. Accept the proposition about the reservation that I have made to you. It is a fair one, and you can not but see that what I demand of you is founded on right and justice. I beg of you to consider it well.

NAH-GAUN-E-GWON-ABE. My friends, you have heard the remarks made by your old friend, the old chief, and the course he wishes to pursue. It is left to me to state to the commissioners what we wish them to do. It is not a tract of land as large as was granted to us by the Northwest Commission. The width of the land shall be the road that you followed to come to this place. Here is the line. [Describing it to the commissioners alone.] We must look out for emergencies, for all those who are under age, for all those who may come and claim an interest without having been represented here at this council; otherwise, we will be at a loss in our allotment for grazing land. The time may come when we will be called upon to locate some of our people who may wish to cast their lot with us. We must think, not only of the Red Lake Indians, but also of others in this matter. There is not much of this country that we have outlined here that is good for much. You say there is some swamp, and it is true. Most of the land that we select is valueless to the whites and valueless to ourselves but still we would like to keep it intact.

The members of the commission and the agent of the reservation then questioned the Indians at length as to the quantity of pine on the tract of land they desired to reserve from the cession.

AH-NUH-NE-AY-GE-SHIG. It is our wish that you should take this into consideration, and also bring before the Great Father the fact that we wish this tract of land. My friends, we hope that you will grant our request, which is the desire of all the Red Lake Indians. If you fix the boundaries as we have outlined, we are ready to sign. I am interpreting the wishes of the people here, and we make this appeal for them all.

I-EEN-GE-GWON-ABE. The Master of Life looks with favor on us all, and is looking over this work now being done. May there be harmony in our discussions. Sometimes when I stand up here I do so with a shameful countenance; I want to know what is the status of the Indians who live on the other side of the lake. I wish to be heard on this matter, and wish to make a road there. I wish to come within that reservation myself, and this piece includes all the different interests.

MAYS-CO-CO-NO-YAY. My friends, I shake hands with you all. The young men submitted that outline for our consideration. We are with the young men, and hope you will grant their request. The Red Lake Indians concede all to you—all the land that is worth anything and that will bring any revenue; the rest we wish to retain for ourselves. This is the sincere wish of all the people, and we must guard their interests, which are confined within this tract of land. The reason we make this selection is that, although it is valueless to the whites, we get a great deal of game and other means of subsistence out of the swamp. I beg of you to let me appeal to your feelings in this matter. The young me want it

for their children, who will also have children, and I hope you will grant this, as we concede all that is valuable of our reservation.

WAH-BAUN-E-QUAY-AWSH. I also salute you. I wish to bring to the notice of the commissioners one point we are at; in speaking for myself I utter the feelings of a great many others in the same situation. I have a child married to a Lake of the Woods Indian; that child wishes to come back here. The Lake of the Woods Band have children here. The time may come when we will consider it the part of wisdom to reserve something for them.

At the present time, under present conditions, we can not bring our children here, and can not enroll them here, but they nevertheless have the same right that we have. Please pity our appeal. We know what will happen in the future, and that is why we appeal so strongly to your feelings. I do not wish to put a barrier against my children who are not here. Let there be a road open to those who have a right here, that they may come and visit us and have land. Please represent this in our favor.

PUS-SE-NAUS. My friends, I salute you. I wish to allude to what was said before the commissioners and the others came in.

It is seventeen years since this matter was agitated here. Those who are dead, of course, can not be present. I am the only one of that lot. The matter was discussed about the rights of the Indians hereafter—those who should be born and have a right here. It was for the purpose of protecting all the rights that that council was held seventeen years ago. The same thing that was under dis-
330 cussion then is under discussion now. We hope that the same feeling will inspire us when we think of the Master of Life, and that He will help you in your deliberations. The whole matter rests with you. May you be pleased to grant the requests of the chiefs and the requests of the young men to our chiefs.

Mr. RICE. We have heard your proposition, and we think we can perhaps change the lines so as to give you all you want, and very much more than you will have use for—you, your children, grandchildren, and great-grand-children—and still please the Great Father much better than by following accurately the line you suggest. You have made some mistakes in your lines; we think we can change them so it will be much better for you. I do not know that your Great Father would think you were very liberal in wishing to keep all the fish to yourselves.

Now, your object is to get as much money out of your reservation as you can. It seems to us that it will be advantageous to you to leave open the mouths of some of the streams that run through the pine land, as the lumbermen will not pay you as much for your pine if they do not have those outlets for it. When they commence running pine into the lake and making the rafts in order to ship it below there will be work for a large number of men. If they are compelled to work in the midst of your women and children, some trouble will come which will be greatly to the detriment of the tribe. We propose, after talking among ourselves, to give you all the good land

and as much of the bad as we can. We will consult a moment and see if we can change the line so it will be satisfactory to you.

The commissioners then consulted with each other and with the Indians individually about the lines of the proposed reservation.

Mr. RICE. The most important question has now been settled. The only doubt we have is as to whether the Government of the United States will approve of our yielding so much, but we will do the best we can. In order not to detain you and to hasten the *the* work, we will now give you an opportunity to sign the paper. We will to-night draw this just as we have agreed and submit to your principal men to see that it is all right. John English will please come forward to witness the signatures of the Indians who sign.

Henry Beaulieu then proceeded to take the signatures of the Indians, there not being a dissenting voice raised as to the signing of the instrument.

NAH-QUAN-E-ABE. There is a lot of timber that is down and that is valuable; it is going to decay. Is that going to be enumerated in the sale?

Mr. RICE. We are going to ask the Great Father to give you the proceeds of all that timber lying on the ground up to the time the examiners commence work.

NAH-GUAN-EGWON-ABE. It is our sincere wish, after these papers are signed, that a statement of the progress of the collection, or accumulation, of the revenue from this arrangement shall be furnished to us every six months. After the surveys have been made and the sales begin we wish to know every six months what the sales amount to.

My friends, we wish to make another request, which arises from suspicions we have had on account of the way we have been treated before, when suspicion was excited in many persons. We take so much pains in such matters because of the many promises made to the Indians for their advancement which have never been fulfilled. Look back and see what the Indian has ceded, and without any revenue from it. He has ceded a vast number of acres, enough to raise a large number of American people upon. What have we to mark those cessions? See the cessions the Red Lake Indians have made. See the amount of land thus populated by the whites and the number of children born there—even on the comparatively little land we have ourselves ceded. Look now at the condition we are in. What do we get for all the cessions we have made? See the prosperity of those who have benefited by the cessions we have made. Look at the dilapidated condition of those people here. This shows why we have been so slow in coming to an agreement. It is to guard against all these things, so there can be no misunderstanding.

My friends, is it the truth—we don't dispute it, but is it the truth, all that you have said to us—will it transpire? We wish to hear it once more so that all can hear it. The white man is very strong; the Indian is very weak. The white man is high, while the Indian is very low. When an agreement is made the white man always knows how to construe it, but the Indian can not help himself. My

friends, take my remarks as friendly. If the truth is promulgated, these people will thank you very much, and we know it will be promulgated by men of truth and the friends of the Indian. I wish to have it again expressed as the last speech before the signatures are written.

We also want it understood that none of this money, the proceeds of this arrangement, is to go to pay old credits. I know that most of the people who owned those old credits have dwindled into dust; those still living may owe a little, and I don't say that they do not.

My friends, we have received many commissioners. When they utter their words it makes a pretty sound, and everybody is
331 satisfied by it; you have uttered that sound, and we are bound to respect it because we know that you have done this for the benefit of the Indian.

Bishop MARTY. The chairman is tired of speaking and wants me to answer. From all we know of the Government of the United States we are sure that what is promised to you will be carried out. These arrangements do not go back to Congress to be, perhaps, by it thrown aside. You are the ones to say "yes," or "no," as Congress has already said "yes," to these negotiations. If it is to go back to Congress to be discussed, with the consequent uncertainty as to its standing, I would not have anything to do with it, nor probably would the other commissioners. Mr. Rice would not, and I know Colonel Whiting would not like to stand in that position before the Indians, to have promises made and then not carried out; but Congress has already put the money into the Treasury which is to be paid out to you.

But it is not enough for the Indian to have money in order to become well off; something else is needed; he must know how to make good use of money. Among the whites, many a man with little to start with becomes well off, while others having plenty of money, spend it all and die poor. There was a time when the whites were in the same condition as you are now—living in the woods and from the chase—but the messengers of God, of Christ, went among them and taught them to pray and to work, and by that their whole situation was changed. If you will look at the lands you once had you will see that the white man has altered the whole face of the country. The old men among you can not work any more, but the young men must go to work in earnest and learn how to farm and build houses. As the bird is made to fly, so man is made to work, is written in the good Book, and as they work they should pray to the good Father in heaven to bless their work, to give them good seasons and make their crops grow.

So let them come up now, all those eighteen years of age or over, give their signatures.

Mr. RICE. I am called upon by the other commissioners to make another statement. Before I do so, however, I wish to say one word in reply to what Leading Father said about the pine. I wish you to understand that what was said about fallen timber is not in the

treaty, but it seems to us that you should have the proceeds of such timber up to the time the appraisal is made; we put it into the paper, and will do what we can.

In regard to that and some other matters that you wish to be informed of, you must apply to your agent; he is posted in regard to your local matters. If at any time there is anything wrong, go to him and he will send it to Washington. He is one who served the country in the last war, has held many high positions since, and filled them to the satisfaction of the whites.

According to the arrangement we are making with you, you will receive the $90,000 already in the Treasury for distribution, giving every man, woman, and child among you about $9 apiece; this to be received by you every year. The sum I mentioned will be paid to you every year until the interest upon the sales of your lands shall amount to $150,000. In the meantime, as the sales take place, the interest upon the money will be paid you in addition to the $90,000 When the sales shall amount to $1,000,000 there will be $50,000 added to the $90,000 every year, which will amount to about $15 for each man, woman, and child; but this is not to be all paid in cash. As this goes on and the sales increase—of course we can not tell how much they will amount to—interest will be paid upon all the proceeds of the sales. There is a possibility of its running far beyond three millions, perhaps double that sum. The pine upon your brothers' land has already been estimated by the lumbermen, we are told, who estimate it at more than three millions. In regard to yours, we can only say that it has not been surveyed or examined, and so as to it we can not speak. But when it reaches five millions, the amount that you will each receive and which will be expended for your benefit, will be about $30. This will continue until the end of the fifty years.

Have you now asked all the questions you desire to? If so, we will proceed to business, and receive your signatures.

SHAW-WUN-AH-CUNIG-ISH-KUNG. There are some Indians not here, who are living outside of the reservation, on ceded lands, at the Lake of the Woods; they may be more or less. I do not know their numbers. What shall we do in that case? One was taken off and his improvements taken from him.

Mr. RICE. We know all about that. You have retained land enough in your reservation for more than you have here now. We have in that matter filled the measure twice full. All you have to do, if your brothers wish to come here and live upon the reservation, is to report it to the agent, who will do as you desire, if the person has a right here. We think when they see how well you are doing they will all come back. But those are questions which can be answered by the agent, as he understands the law of the land and the treaties as well as we do.

SHAW-WUN-AH-CUNIG-ISH-KUNG. This is a new departure as far as we are concerned. We never had an agent living among us. At this crisis this land will be surrounded by whites, and it is essential that we should have an agent living in our midst.

332 Mr. RICE. When that time comes we will all try to have one appointed who will live here, but we can not put it in the paper.

SHAW-WUN-AH-CUNIG-ISH-KUNG. I want to know if you will leave a copy of the arrangement here.

PUS-SE-NAUS. If you can put into that instrument that we don't wish any liquor introduced over the lines of the reservation we will be much obliged to you.

Agent B. P. SHULER. If you find a man with liquor on this reservation lock him up and I will attend to him.

SHAW-WUN-AH-CUNIG-ISH-KUNG. I will not be in the way of those who want to sign, and I want to sign when I see the name of the present president of your commission.

MAY-DWAY-GON-ON-IND. The Indian has at heart but the welfare of his children. There is no white man, either old or young, but who thinks of his children, trying to make a revenue for them, and to ease their misfortunes when they have any, and that is all we are after.

I would touch on the matter of the request that no liquor shall ever come on this reservation. It would be the ruin of all these persons that you see here should that misfortune come to them.

Bishop MARTY. We are glad that you mention the matter, and we hope that all these people will remember as long as they live the words of this venerable chief.

MAY-DWAY-GON-ON-IND. We wish hereafter to have a trader who has the means to live among us, that our people may not feel any want of opportunity when they desire to make purchases. Let there be a store here that can furnish what my people need; and we wish that no money should be deducted from what will be due these Indians here.

My friend (addressing Mr. Rice), I want you to sign this instrument before I do.

Mr. RICE. We can sign in our place, but we can not sign in the place of the Indian.

I-EEN-GE-GWON-ABE. I want to know if I have your permission to cut a road through from Rainy Lake—that is, may I bring my people down here?

Bishop MARTY. You may.

I-EEN-GE-GWON-ABE. I am in sympathy with and I accept the proposition, but I don't want to sign until after I see some of the benefits.

WAY-WAY. I am in favor of signing; I want to have my name put on, but I don't want to follow their example; I follow the example of the old chief. I do not say anything in opposition here, because I have too much respect for my relatives. I have never received anything from the whites when there was anything given here.

The old chief, May-dway-gon-on-ind, signed the instrument soon after the close of this last speech as above, and was followed by

other chiefs in order of rank, after which a large majority of the Indians present signed.

Mr. RICE. Before closing this, our last council, I wish to thank you for the patient attention you have given to the business which has called us together. You have done the most important act of your lives, and we hope and believe that you will not be disappointed in its good results to you and your people. If we meet again I trust we shall find you in prospering condition, and now, bidding you a kindly good-bye, I declare this council closed.

FIRST COUNCIL AT WHITE EARTH

JULY 17, 1889.

All councils held here were opened with prayer.

At the first council the commissioners were introduced by B. P. Shuler, Indian Agent.

Mr. RICE. My friends, your agent has stated to you the object of our visit. I have known you many years, have attended many of your councils, and I look upon this as the most important of them all, believing that your action during the present negotiations will have a great influence on your welfare. Much has already been said upon the subject, and I beg that you will discard all that you have heretofore heard, giving strict attention to the propositions as now made, and asking explanations on all points on which you desire them. We will remain here as long as you wish, provided you confine your inquiries to this subject, and I especially request that no word be uttered that might offend another.

The instructions require that the act be read to you, after which the explanations required by any of you will be made. We do not expect that you will all look at the matter in the same light, but after hearing the explanations and consulting among yourselves, it may be that some of you will change your minds. Whatever is done must be done of your own free will. I will now ask Colonel Whiting to read the act.

Commissioner WHITING. Men of White Earth, in obedience to the request of our distinguished chairman, I invite your careful attention to this paper.

333 Commissioner Whiting then proceeded to read the act, it being interpreted phrase by phrase by the interpreter.

Mr. RICE. My friends, we thank you for listening so attentively to what has been read, and if agreeable to you will meet you here again at 3 o'clock to explain the act to you in connection with the treaty of 1867 and the allotment act of 1887.

The council was then adjourned until 3 o'clock, at which time it was called to order.

Mr. RICE. It has been customary for the Government to send commissioners to negotiate with you before Congress took definite action, but owing to the great delay in ratifying treaties and especially as that of three years ago was not acted upon, Congress sends for your consideration the propositions read this morning.

This measure originated in the lower branch of Congress, which sent it to a committee, which made amendments and corrections before returning it; when it did so, the House passed it and sent it to the Senate, which referred it to a committee of which Mr. Dawes, of whom you know, is chairman; he reported it back to the Senate, from which the bill went to a committee of conference. The committee of conference reported upon the amendments and to its report the House agreed. The bill then went to the President, who laid it before his council, the members of which concurred.

I mention this procedure to show that the act is not the work of any one man, but that it was a long time pending, and received careful examination from both the President and Congress.

Now, we will go back to the treaty of 1867. This land was reserved under certain conditions, of which you are well aware, it being provided that you could have no land until you had complied with the conditions in regard to making improvements. Although twenty years have passed since that treaty was concluded, I am informed that a great many of you have not yet taken allotments. Under the present act, as soon as these negotiations shall have received the approval of the President, we are authorized to give to every man, woman, and child 160 acres of land as an allotment, and in case of the death of any person who has received such an allotment, the land passes to his or her legal representatives.

We can see how discouraging it must have been heretofore for anyone to secure an allotment; death might intervene and the land and its improvements be lost; very few had the means, if the disposition, to put even 10 acres under cultivation.

The Dawes Act, passed by Congress two years ago, provides that "when the lands allotted are only valuable for grazing purposes, an additional allotment of such grazing lands, in quantities as above provided, shall be made to each individual."

The instructions of this commission say, speaking of the Dawes Act, from which I have just read to you, that its provisions are made applicable to the allotments of land made under the act which we are here to lay before you.

That portion of the act making provision for the sale of your lands seems to be well guarded. None of your pine timber can be sold for less than $3 per thousand feet, and if the examiners say it is worth more it can not be sold for less than the price they fix. It provides that all money received from the sale shall be placed in the Treasury and shall bear interest at 5 per cent, which shall be paid to you annually. Three-fourths of this interest is to be paid to you in money and one-fourth is to be devoted exclusively to the establishment of free schools. The amount of interest, of course, increases as the sales of your lands increase.

At the end of fifty years the principal is to be divided equally among those who shall be then living. To provide for the breaking of land, building of houses, purchasing of cattle and horses, and every-

thing of that kind that you may need for your advancement, there is a clause providing that Congress may, in its discretion, from time to time during the said fifty years appropriate for the purpose of promoting civilization and self-support among the Indians a portion of said principal sum, not exceeding 5 per cent thereof. In case of the failure of crops or any unforeseen misfortune here is a storehouse of money to be drawn upon for your wants. Of this money you receive none until some of your lands shall have been sold, but in the meantime that you shall not want there is $90,000 advanced to you, to be paid yearly in advance, and three-fourths of it for the first five years may be expended in procuring seed, farming implements, etc. This is to be expended for the benefit of such as desire to engage in farming, but it does not come out of the general fund; it comes out of each one's share. The rest will be paid in money, and those who wish all money will receive it. The $90,000 annually is entirely apart from the other money, and will be received in addition to the interest upon whatever money may be in the Treasury every year until that amount shall reach $3,000,000, and enough besides to reimburse the Government for all expenses. What are termed agricultural lands are to be sold for $1.25 per acre.

JOHN H. BEAULIEU. I understand that these lands are to be divided pro rata, according to the number of acres. If we were figuring just for ourselves, we could make a good thing, but there are 954 Mille Lac Indians. The mixed bloods will number almost the same. At White Oak Point you will see 10 white-headed
334 children to 1 full-blooded Indian. If they conclude to take their lands in severalty where they are they can only be allotted such lands. Draw the lines of the reservations and you will find that they conflict. I will try to explain to you by facts and figures that they can not be allotted 160 acres of land each, of agricultural land, according to that bill. I understand the act to say that the United States advances $90,000 as such interest until the fund reaches $3,000,000, and my construction of that is that Congress will keep on advancing that sum, and if our interest amounts to, say, $2,500, Congress will advance us enough to make up the $90,000.

THEODORE H. BEAULIEU. Am I to understand that the Indians in the State who have heretofore sold all their pine are to share in the common fund mentioned in section 7 of the act?

Mr. RICE. All receipts from the sales of lands will be put in the common fund.

THEODORE H. BEAULIEU. Most of those people have their allotments and have sold their pine lands; I do not see why you should grant them the privilege of becoming beneficiaries under this general fund.

Mr. RICE. This question was discussed at Red Lake, and they have twice as much land as all the rest of you put together. They thought it better to divide what they had than to wait until all their pine was destroyed. The pines are burning rapidly.

Your position is very different from that of those at Red Lake, and some of the older men here understand it thoroughly. Up to the

time of the treaty of 1854, made at La Pointe, the Chippewas of Lake Superior and those of the Mississippi held the country in common. Had it not been for that treaty they would have had the same right here that you have. You then asked for a separation; who made it for you? There are quite a number here now who were present then, and who know who did it. In that division it turned out that an equal partition was not made. You not only got the cream, but you got the cow and the calf. You have received from the sales of your lands, sold by you since that time, more than they received then. If a mistake was made then, I am sure you are willing to rectify it now as far as you can.

SECOND COUNCIL AT WHITE EARTH

JULY 18, 1889.

WOB-ON-AH QUOD. It is a custom with me when anyone of prominence comes here, especially if he has been appointed by the Great Father, to take him by the hand as a token of respect, as I do now. Last winter we heard from Washington the news that commissioners were appointed to come and see us, to read to us the act you have read to us here. The Government of the United States has seen fit to open negotiations with its friends the Chippewas, and it always puts these things in writing; everything is put in writing, but we see that the United States Government fails to put its promises into fulfillment. I and all the Chippewas have great respect for their Great Father, but I have been waiting very patiently day after day and year after year in order to enable our Great Father to fulfill his promises made to the Chippewas; we have been waiting and waiting and waiting, but, through our respect for our Great Father, without becoming angry. The debt about which I have spoken was incurred when I was a young man; I am now old, and still it is not paid.

Matters went on so from year to year; the time arrived when a division was made of the interests of the Chippewas of the Mississippi and the Chippewas of Lake Superior. There were some stipulations in relation to that showing what proportion I was to receive. My friend (addressing the chairman), you are the one, if I am not mistaken, who knows all about that treaty of 1854. It was distinctly understood at the time all those reservations were set apart for the Indians; that whenever anything further in relation to the reservations was done the Indians should have a full understanding of it beforehand.

There have been dams established since that time, and still no settlement has been made. At the time it was proposed to build those dams a commission asked the consent of other Indians besides us; and we did not wish the dams built, nor did our friends, the Pillagers, but in spite of all the protests we could enter the dams were built; of course they wanted the water for the Lower Mississippi, but they did it under our protest.

After the dams were built commissioners came to set the amount of damages, after the rice fields had been destroyed. They came here and stipulated a price, which was rejected as insufficient for the damages done to us. When the last commission was here we wished to talk about these damages caused by the overflow and the amount of property destroyed, but they would not talk to us about it; they said, "Wait, wait." We did not enter into any agreements here; they went to Leech Lake, where the subject was submitted to them, and they agreed upon a price for the damages caused by the overflow. I was told that whenever anything was done by the Government inside the resevation that would yield a benefit or a revenue we should receive the benefits of it.

335 Now, another matter to show how the Government treats us. There was authority given to cut some dead and fallen timber; a great deal of it was rotten; still the stumpage amounted to 50 cents per thousand. The fund made from that was placed in the hands of the Government. Then authority was granted to take trees blown down by cyclones and destroyed by fire; there was a dollar a thousand allowed on that kind of cutting. Sometimes we are at a loss here to know which way to turn for money. We go to the agent to see if that stumpage money can not be expended in our behalf. It is unpleasant for us to say that we can hardly ever get it, although it is ours.

We can not be blamed under these circumstances for the fear we entertain regarding any arrangement with the Government, because after the Government gets the money in its hands all we know is that it is there, and we can not help ourselves, as the Government will do as it pleases, and its debts to us are never paid according to agreement. It is the wish of all the people of this reservation that these matters should be laid before you.

JOSEPH CHARETTE. I have a few words to say, although I am not much of an orator. When we heard last winter that this act had been passed we said that we should present the matters to you for consideration, as just enumerated by White Cloud, before entering into any arrangement. We have great confidence in the lawmakers of the United States; we are not disposed to say that they do not work in our interest; we think they do so, but we think they should try to make appropriations to liquidate their past debts to us, when they know that we are so much in need of money. It is about time that this matter should be settled; that this whole debt should be paid; and that it should not be allowed to run year after year, when the Government is well informed as to our destitute condition. The United States owes this debt apparently as an everlasting obligation, never to be liquidated. We think we should come to an understanding about this old debt before entering upon any new and complicated arrangement.

We have heard that the Lake Superior Chippewas have several times been down to Washington, and so have the Mississippi Chip-

pewas. We have had nothing to do with the Lake Superior Indians; the matter has never been submitted to us, so we can not speak intelligently about their matters.

It is our sincere wish, however, that in case the money due us can be appropriated it be paid to those entitled to it; those who are here, and not the newcomers from elsewhere.

BAY-KIN-OW-AUSH. My friends, we know that you will do what you can for us, having been our friends so long. I wish to say that when our payments were being made some time ago our payments were cut short, and some of the money was taken back to Washington.

Mr. RICE. You have brought up a difficult subject; it is as if you should ask us if there were birds in the forests. We would say, "Yes"; but should you ask us how many there were we could not tell you. We can tell you that we know there is money in the Treasury belonging to you, but we can not tell you the day when you will receive it. I have had more anxiety upon this than you have, for it is 35 years since I wrote that article in the treaty to protect you against losses that had occurred. Before I left the Senate I had the amount ascertained, and it was then some $90,000; at the last investigation, some 10 years ago, it was $118,000 and has, of course, increased since then.

Your Great Father has not repudiated the debt; he has acknowledged it, and it stands to your credit there on the books. The money is there and belongs to you. The Great Father has had reasons, perhaps, for not sending it to you that we do not know. He thinks there has been money enough sent here during the last 20 years to put a large portion of this reservation under cultivation and to place a great many head of cattle here. It was understood that the working clause in the treaty of 1867 was an impediment in the way of your young men making improvements.

The members of this commission have discussed this matter fully; we know that this money is due you, and we have resolved to do all within our power to see that it is sent. In the official papers which White Cloud has just handed to me he will see that I have worked as hard as any one individual to have this amount paid. My failure and that of the few friends I had to assist shows how weak we were, but the members of this commission have agreed to unite and see what can be done. Perhaps with our present associates we will be stronger in the future, but you well know that the United States and the States allow nothing to stand in the way of public improvements. The white man can not stop it, neither can you. The Government resolved from time to time that railroads should be built to the Pacific; there are now three running across the continent; no one can stop them. We must deal fairly by you, and in doing so must tell you plainly that we have no instructions whatever to do anything with you on the questions now raised; we were told to listen to all that you might say, take it down, and send it to Washington. This we will do, and after having done it will do all in our

power to see that full justice is done. It is for you to decide
356 whether you will let smaller obstacles stand in the way of the accomplishment of a much greater good. Knowing that you had many among you who could read and write, we had had 500 copies of the act printed and distributed among you and others in order that you might understand it fully.

WOB-ON-AH-QUOD. We have placed these papers before you to ascertain what is ours, and how to obtain it. It is true there are a great many half-breeds who can read and interpret this act, and they have done so. We have come to no agreement about it, but we want an understanding about the old annuities.

JOSEPH CHARETTE. The lawmakers knew when they passed this bill that they owed us a large debt and must have forgotten to empower you to deal with us about it. Delegations used to be allowed to go to Washington, but now the door is barred against us and we can come to an understanding about these annuities only through you.

Mr. RICE. If they had given us authority to deal with you on that subject the treaty would have had to go back to Congress, which might have taken two or three years longer. The object of this act was that the matter might be closed immediately, so that no more pine should be lost and that no interested parties should have an opportunity to break it.

As I told you yesterday, Congress commenced at the right end in passing this act. The President has approved it, and if we do not deviate in the least the purposes of the act are already accomplished. Knowing the condition you are in, applying every year for seed and other aid from Washington, they wanted to put means at once in your hands so that you might go on and improve your property, and this in no way lessens your claim upon the Government for the arrearages. We will have copies made of these papers handed to us by White Cloud and will return the original to you.

Bishop MARTY. You have asked in what way you can secure the payment of these old debts from the Government, and I will show you the shortest method. The reason payments are delayed is that it is said in Congress that the money sent here does not do any good. In this act the Government gives you the means to help yourselves, and if you take the hand held out to you the whole country will see that a change has come over you. The great majority of the white people are your friends, although there are others who say that whatever is sent to you is wasted. There are not many such, but in an uphill work you know it takes but little to keep the wagon back.

The dams were built for the advantage of the white man, and your only interest now is to have the damages paid; but this commission is sent to you for your good, for your advantage, and not for that of the whites. The commissioners who came here three years ago made known your desires at Washington, and this act has been passed to enforce those wishes. When this act was read to you by Doctor Whiting I had in my hand the treaty of three years ago, and I

found one provision after another which had been also put into this act, only made more effectual for your good. So you need not be afraid of this act, because it is altogether in your favor.

THIRD COUNCIL AT WHITE EARTH

JULY 19, 1889.

WOB-ON-AH-QUOD. Will you kindly repeat what was said yesterday about the payment of what is due us from the Government?

Bishop MARTY. The money referred to has been admitted by the Government to belong to you, the money is there in the Treasury, and the secretary has taken down what was said on the subject, and it will be presented. The money bears interest as long as it is not paid, but Congress is waiting for evidence that you are able and willing to make good use of it, which evidence you can furnish by carrying out the provisions of this act.

Congress is in the position of a man with an old house; he don't like to spend money on it; but if Congress sees you are willing to start a new foundation they will send you the money. Congress would, however, be astonished if, after signing the treaty of three years ago, which was very much less favorable to you than this, you would decline to accept this one. By the former treaty you would receive only 160 acres per head of family, and the balance of you 80 or 40 acres each; but under this act every man, woman, and child gets 160 acres. Would you take less when more is offered?

When you lived by hunting you needed more land, but as farmers this act gives you more than you can cultivate.

We have on the official pay rolls the number of Indians who are invited to take lands on the White Earth Reservation, and we find there is sufficient for them and you also. The policy of all your best friends is to have you consolidated under the influence of schools and churches. I have heard many Indians deplore the condition of their brethren at Lake Winnebagoshish and elsewhere surrounded by bad white men who take advantage of the Indian and give him whisky and use the tribe for their own advantage and enjoyment. Your liberty is respected in this act; no one is forced; you are invited.

337 but if you want to go to ruin, you are allowed to do so as you please. It has been said there are a great many mixed bloods outside of this reservation, but should they all come there would be enough. It can be ascertained how many outsiders there are off the reservation, because we know how many whites have married Indian women; the agent knows it. Our work is not done until every one has his land.

WOB-ON-AH-QUOD. We wish to speak again about the annuities; it seems to use that whenever we speak of anything that is due us the Government listens and then just shakes his head to the whole thing. We represent these matters to every officer, commissioners, and others, and they always say they will present the matter at Washington, and then nothing is done regarding it.

We have many times been in severe distress for that money, but no notice is taken of our request. We have tried to follow the ad-

vice of our Great Father and get in a position to support ourselves, but we are like a man with a broken leg. Of the cattle we have one ox will die, which puts a man in a bad position to carry on his farm; we have no funds to do the work with; we go back because we have no funds to draw on for our immediate needs.

There are a great many who, on the start, made progress, while they had something to replace their losses, but when we saw that our advance was not permanent, that we could not replace anything we lost, like an ox, for instance, our followers returned to the condition from which they had emerged.

There is a lot of dead and fallen timber which the Government would rather see go to decay than allow us to cut and be benefited by; according to our understanding, we were to have the use of it.

We have received considerable stumpage money, or the Government has received it for us, but whenever we want to use it the authorities have to decide whether it is right to put it to the use we desire to; and that is a sample of the way in which we are hindered; while we are told we have something in the Government's hands, it turns out that we have nothing we can reach. A flouring mill was erected here, and it got out of repair; the dam broke. We tried to get the money that belonged to us to have the dam repaired, but could not, and all the investment there was lost. Whose fault was it, the fault of the Indians or the fault of the Government in failing to allow us to repair the mills, which are so essential to our welfare? When the mill was there, if we had grain to be ground, we could take our wheat there without fear of extortion; now we have to take it outside of the reservation, and we are imposed upon and can not help ourselves. There was not a single man at the flouring mill this spring to protect it from fires or other damage. The Government officials allowed it to go to waste, and the first thing we knew the whole thing was destroyed by fire. Who is to blame?

Why did that flouring mill remain unprotected? Because it was the Indians' and it was not worth while to protect it.

We know that our friend here, Mr. Rice, has tried very hard to get that back money for us. You have sifted the matter through and got it in good shape. The Indians are very thankful for the interest you have shown, and they appreciate it, knowing you have done everything you could to get the money for us.

I think that one of the lawmakers who was here with you once (Hon. J. H. Stewart) found that the amount of $10,000 was taken out of that fund, and all these things rankle in our bosoms. Who gave the authority to take that $10,000 out of that fund? It is now ten years since it was ascertained what was due us as arrearages. We were still receiving our annuities at that time, and it ought to have been continued until the whole amount was paid out as annuities. The Indians and the commisisoners of the Government here understood each other very prettily how this arrearage fund should be paid, and it was understood that it should be paid just the same as the annuities were theretofore paid. It was also understood that

in case the Indians wished a change made in the manner of paying their annuities it should be done, and how it should be done.

After agreements are made with us we always consider each article of the treaty as solemn and valid. We made an agreement at one time, which was ratified by the Senate and approved by the President, whereby the chiefs were to get every year so much out of the surplus as pay for their services; and that agreement was abrogated without our ever being informed why it was done, and still it was made law on your statute books.

All money arising from our appropriation which is not used here by the agency goes back into the Treasury, when it is due us.

We told you yesterday that this was the thing that was nearest to our hearts now, after which we will meet you to discuss fully the act which you present.

JOSEPH CHARETTE. For many years past we have coveted an opportunity to lay before the proper authorities at Washington this matter of our annuities, and we think the reason the Government at Washington would not receive us there was that they did not care to talk about their debts to us. Of course, you can not be surprised that we lay these matters before you, as this is the only opportunity we have, not being allowed to go to Washington. We would like to dispose of what is first in the Indians' mind before taking hold of other matters, and perhaps becoming perplexed.

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BAY-KIN-OW-AUSH. My friend (addressing Mr. Rice), we were very much pleased with the explanations you have made, but we think that Congress laid a track for these negotiations that does not work properly, for they have not given you authority to treat on these old matters. A man is always expected to meet his old liabilities before he is allowed to run into debt again. My friend, White Rice, you have the Great Father's name on your commission; we wish you to fix it so that we can get hold of the money that is due us. We are in want of everything; an illustration of our poverty is the fact that a man and woman were married here yesterday, and had practically nothing to start life with save the shoes upon their feet. Now, my friends, we do not want to stand before you like children, without any money in our pockets that we can call our own; what makes a man if it is not money? That is the way we all look at it.

Bishop MARTY. Admitting that the Great Father owes you money, we now offer you new money; the head chief told us that you were so poor as not to be able to get an ox when one was lost. The Great Father now offers you $90,000, but you say you don't want it until you are paid the old debt. As a friend, I advise you that you will get the old debt sooner by taking the money now offered you. You must remember that the Government considers you its wards, and that you will remain such until this act is brought into operation, when you will become citizens, elect your representative to go to Congress, and stand the equal of them all, demanding your rights, if necessary. But if these propositions are thrown back in the face

of Congress, years will pass, your pine will be burned, and many will die of starvation. An old woman told me this morning that since the snow left the ground she had had to dig snakeroot, which was all she had to live upon.

MI-SHAKE-GE-SHIG. I would answer what has been said here, being one of the chiefs, but we have appointed a speaker, so we are not at liberty to do so.

Bishop MARTY. The Government does not treat with bands, but with individuals, and through us now asks every head of a family whether he wants his wife and children to remain in misery, or whether he will give those who come after him a future. Is there anyone here who thinks there is not land enough reserved.

BAY-KIN-OW-AUSH. We were aware that every man acts for himself, but we know that in meetings of the whites there are two different sides, which have leaders; everyone can not discuss these matters. The rule you lay down is a new departure; according to the white man's law a young man is not master of his actions until he is twenty-one, while under this act young men of eighteen can sign. Perhaps it is for the purpose of weakening our influence.

Bishop MARTY. It is a compliment, as it indicates that the Indian comes to maturity sooner than a white man. Everyone gets 160 acres, even the little child, and that is not the case among the whites.

Joseph CHARETTE. We do not like the pooling arrangement of the act. The white man would certainly not make such a bargain. Another thing, it will throw the Indians into the hands of the law before they are prepared for it; the reservation system is now a protection to him.

Bishop MARTY. You will not be made citizens until you are ready for it. As to the pooling, it is customary among the whites when a brother is seen in misery to help him, without first asking whether he is in fault. The Great Spirit has made it a law that we should love him and our neighber as ourselves, and the Red Lake Indians, who have 3,200,000 acres to put into the pool, have not refused.

THOMAS SWAN. We wish to talk these matters over among ourselves.

An adjournment was then taken until the afternoon.

AFTERNOON SESSION

WOB-ON-AH-QUOD. I have been consulted about the matter of the arrearages, and we would like to ask when, in your judgment, you think we will receive some part of the fund?

Mr. RICE. You know that twelve years ago, when Dr. Stewart came here with me, this matter was fully discussed. We obtained all the facts; they were presented at Washington, and we came very near getting the money for you. If he had lived and been sent again to Congress, you would have had the money long ago. We will do all we can to secure it for you, and see no reason

why it should not be appropriated next winter. We have taken down what you have said, and will report it to the Government. I know that all you have said on the subject is true. I know you have been expecting this money a long time, and know how disappointed you are. The Government has already put on its books the amount due you, so that so much progress has been made. If this is all the information you desire, I will introduce our associate, Dr. Whiting, who will speak to you.

339 Commissioner WHITING. Chiefs, venerable in years—my young chief, in whose veins courses the hot blood of vigorous manhood—the storms of these many winters that have beaten upon you, have furrowed your brows; and in those deep lines we read how anxious has been your thoughts for your people. To you all with a kind heart and a warm hand I offer my profoundest sympathies.

I respect you for what you are to your people, and for what you have been to them in all these long years. I respect you for what I believe to be your true feeling—that you are anxious that no harm shall come to those over whom you have so long watched. We not only respect you for your desire to do what is best, but ourselves have the feeling that nothing shall be done except what is for your greatest good. We believe that these fast-passing hours are fraught with momentous results to your nation. We beg of you therefore to cast aside all prejudices, to believe that we are your friends, as we believe that you are ours. I conjure you to take what I shall say in a spirit of kindness, because it is in that spirit that I shall address you.

The Great Father and his counselors, we believe, are approaching a time when a new departure will be made. You very well know there is a class of men who desire to obtain your pine and to lessen your territory, and they would be only too glad to have you refuse to negotiate with those sent by the Great Father. If those men had their way, this commission would never have arrived here, and other measures would have been taken, but the Great Father, under the advice of gentlemen like the chairman of this commission, said: "Let us send one more commission to those people to see if an arrangement satisfactory to them as well as to the Government can not be made." The Great Father feels kindly toward this nation and would regret it should anything occur to your injury.

It can not be denied, however, that the people of the United States consider that you have here a country vastly larger than you can make use of—36 townships of as valuable and as beautiful country as I ever saw. You are a people of 2,000 residing here; 5,000 more living in other parts of the State; it is easy to see that this rich territory, capable of producing a large revenue, is lying in idleness. So the Government feels that it is not just either to yourselves or others that it should remain unoccupied practically and untilled; it has therefore sent this proposition to you, dividing this land among you, giving each more land than he can cultivate, more

than the farmers of the Northwest average. The county in which I reside, and which in its beauty and productiveness resembles this region, contains 21 townships. It is divided into small farms, many of them not over 80 acres, and it sustains a population of 40,000. It is capable of sustaining 40,000 more, and giving every man, woman, and child plenty and to spare.

The Government is desirous of placing each one of you where you can produce all that your families need and more, and enjoy besides "the glorious privileges of being independent."

If you adopt this measure and move on the farms, each owning and cultivating his own and transmitting it to his children, how soon will these hills be bristling with golden grain and be covered with cattle? Towns will spring up, a railroad will come to you, and you will be like other people.

You understand that the money derived from the sale of the lands of the Chippewas of Minnesota will be kept in the Treasury of the United States until it amounts to $3,000,000, and at the end of fifty years all that has accumulated will be distributed. This argument, of course, is addressed to the younger men more than the older. Fifty years hence we shall be gone; part of you will be gone, but your children—their children—will be here, and if you go to work under this act they will be possessed of all this country, the richest and happiest people in the Northwest, with perhaps $5,000,000 distributed among them by the Government. Fifty years hence there will be railroad trains sweeping up here, and on this very spot will be standing a city large enough to buy all the produce from your farms, while your descendants will be as well educated as any in the land.

The boys you will raise on these farms will fifty years hence be the merchants and the bankers of the city which will grow up here; can you afford to continue to live as you have during the past twenty years? How much has your population increased in that time? It is a fact well verified that you can not multiply under such disadvantages as surround you at present. Take the history of the Seminole Tribe, of whom you may have heard. In lands they are the richest people on the earth. Not very many years ago they numbered many thousands—more than all the Chippewas; each census shows how fearfully they are diminishing. The last census, taken a few months ago, demonstrates that that once great tribe has dwindled to 1,500 souls. This shows you that rich lands alone do not make a people prosperous unless they are used.

The Government stands ready to do the best it can for you, if you will do the best you can for yourselves. The Government, like you, wearies of these long delays. You know very well that the head of this commission has been your friend for forty years and more.

The Government has appointed commission after commission
340 to visit you, and when it was finally about to give up in despair about making a treaty, it sent for him. Only his great love for you and his desire to make one more effort in your

behalf prompted him to come here. You may know that he lives in a beautiful home, in the most beautiful portion of St. Paul, surrounded by a loving family and every comfort. It was a great sacrifice for him to leave it for your sake. In sorrow his family parted with him, and he now believes that this is the last opportunity these Indians will have to make a treaty with the Government which will be satisfactory to them, saying, "As their friend for forty years and more I must go to them." I beg you not to throw aside his counsel lightly, for no other friend like him can come to you.

Then, in conclusion, let me say that as I believe in God and believe he will watch over you in your efforts to do your best, I am sure that your highest welfare requires that you should enter into this agreement with the Government.

GUSTAV H. BEAULIEU. We would like to know whether, if the Lake Superior Indians should refuse to sign this bill, they would be included in this agreement, provided two-thirds of the Indians here sign it.

Mr. RICE. The provisions of the bill very plainly require two-thirds of all the Chippewa bands to sign.

JOHN H. BEAULIEU. Can Indians living off the reservation sign?

Mr. RICE. That question is not touched upon directly in the act.

JOHN H. BEAULIEU. What is the construction placed upon the words "belonging to and occupying"?

Mr. RICE. That includes only those living on reservations and who are actual occupants.

GUSTAV H. BEAULIEU. We wish to know if the Gull Lake Indians are disinherited as to any rights they have in this reservation?

Mr. RICE. I will read from the instructions sent by the Interior Department: "The Indians who come within the purview of this act and to whom the proposed negotiations are to be extended are those of the following reservations: White Earth, Red Lake, Leech Lake, Cass Lake, Lake Winnebagoshish, White Oak Point, Mille Lac, Fond du Lac, Grand Portage, Bois Forte, and Deer Creek, and also the scattered bands of nonreservation Indians throughout the State."

JOHN H. BEAULIEU. There are other scattered bands who might claim to be Chippewas and would want to come in under the provisions of this act.

Mr. Rice then read the descriptions of the various reservations as named above, showing the bands which belonged to each reservation.

JOHN H. BEAULIEU. Can any one sign for Indian families whose head is a white man?

Mr. RICE. No one can sign save those having Indian blood.

JOHN H. BEAULIEU. What is the construction of the provision of the bill that in no case where an allotment has been made in severalty the holder shall be deprived thereof or disturbed therein?

Mr. RICE. That is capable of two constructions. Some believe that it has relation to Mille Lac lands. If you should cede a portion of your lands upon which an Indian has settled that provision protects him under the Dawes bill. The Red Lake Indians made a large cession, and under the provision any of them who have heretofore settled upon the ceded lands have a right to hold land so selected under the homestead or preemption laws.

JOHN H. BEAULIEU. The act under which you proceed says that allotments are to be made in accordance with the Dawes bill. Are the general laws of the State extended over the Minnesota Indians?

Mr. RICE. Here it is in very plain language: "That where the treaty or act of Congress setting apart such reservation provides for the allotment of lands in severalty in quantities in excess of those herein provided, the President in making allotments upon such reservation shall allot the lands to each individual Indian belonging thereon in quantity as specified in such treaty or act."

GUSTAV H. BEAULIEU. We want to know whether the provisions of the Dawes bill extending the laws of the United States over the Indians will be operative.

JOHN H. BEAULIEU. I should like to ask whether, when the Dawes bill refers to the civil and criminal laws, those provisions apply so as to make our people here subject to the taxation of the white man?

Mr. RICE. I think you will come within the same rule as officers at the United States forts; their property is not taxed.

Maj. B. P. SHULER. Allow me to state that I recently asked the United States district attorney about the matter of the service of civil process on this reservation by the sheriff of Becker County, who desired to do so in reference to a chattle mortgage given off the reservation. I had told the sheriff he could not come on this reservation to serve civil process, and I was told by the district attorney that that could not be done here any more than on a military reservation.

341 JOHN H. BEAULIEU. What are the laws regulating the sur ey of the public lands, as to the cost?

Mr. RICE. There is an annual appropriation for surveying public lands, and the price is fixed by law.

JOHN H. BEAULIEU. As this is quite an item in the expenses of this arrangement, and as the Government is going to do the work as quickly as possible, as we understand it, will the Government be apt to pay considerable extra for those services?

Mr. RICE. Nothing extra can be paid under the law.

JOHN H. BEAULIEU. What proportion of pine, in your judgment, must a 40-acre tract contain in order to be classed as pine land?

Mr. RICE. I believe that the rule is, whenever a 40-acre tract contains pine enough to warrant the expense of marketing it, it is so classed.

JOHN H. BEAULIEU. Suppose the land contains other valuable timber, the so-called pine land, is that also valued with the pine?

Mr. RICE. The act says: "Land on which there is standing or growing pine timber," the amount of timber is not limited; the value of the land goes in with the value of the pine; the purchaser does not get pine without land. The value of the land is added to the value of the pine.

JOHN H. BEAULIEU. Here is a piece of land, good oak timber or sugar bush; is that to be classed as agricultural land without adding the value of that timber?

Mr. RICE. It is very clear that any land which has pine on it will be classed as pine land, whether it has fallen timber or not upon it.

JOHN H. BEAULIEU. If, after pine lands have been sold, and it can be shown that the appraisals were far below a just estimate, can the Secretary of the Interior annul such sale?

Mr. RICE. The annulment comes in prior to the sale; when the appraisal is too low the Secretary of the Interior can annul the appraisal and appoint other appraisers.

JOHN H. BEAULIEU. After a single public sale provided for in the act, will the balance of the pine land be sold at private sale?

Bishop MARTY. It is evident that there can be but one public sale, and the residue of such lands after such public offering shall thereafter be subject to private sale for cash at the appraised value of the same upon application at the local land office.

JOHN H. BEAULIEU. Is it the opinion of the commission that there will not be Indians enough to take up the whole of this reservation under the act?

MEMBER OF THE COMMISSION. It is.

JOHN H. BEAULIEU. What does the phrase "subsisting, valid preemption" refer to, as found in the act?

Bishop MARTY. I should construe it as meaning settlements upon any lands now ceded; if any Indian has attempted to make a preemption upon such ceded lands, it will be respected and preserved for him.

JOHN H. BEAULIEU. If the Indians consent to this bill, how soon do they get any money, and if 25 families should move at once to this reservation, what provision is made for their subsistence?

(Question withdrawn for the present.)

JOHN H. BEAULIEU. What constitutes a man the head of a family?

The chairman read the clause in the act classifying the Indians.

Council then adjourned until July 20.

FOURTH COUNCIL AT WHITE EARTH

JULY 20, 1889.

Mr. RICE. I now return to White Cloud the papers handed to us regarding the arrearages.

(White Cloud took the papers referred to.)

GUSTAV H. BEAULIEU. There are a number of Indians over the State who live on no reservation, and still they claim to be entitled

to all the rights that we are; can they be participants under this treaty, to the full extent, with annuities?

Bishop MARTY. We are only instructed to visit the reservations, and can take only the names of those recognized by the tribe.

GUSTAV. H. BEAULIEU. If a scattered band of Indians should meet you at, say, Mille Lac what action will you take?

Mr. RICE. The course I think the commission will take is this: Where we hold a council, every Indian who is desirous of signing will be permitted to do so, no matter where he lives, provided the other Indians do not object; we are not sitting here as a court to decide that question. If there is dissatisfaction with our decision, they can go to Washington.

GUSTAV H. BEAULIEU. We want to know whether the laws of the State are to be extended over the Indians.

342 Mr. RICE. When you become citizens under the laws of the State, your land is, of course, exempt from levy, you are also allowed a certain amount in value of household furniture, the blacksmith is allowed his tools, the farmer's cattle and stock can not be attached no matter how much he may owe, but if he has more than this and owes an honest debt, he has to pay it. He can keep a sufficient supply of provisions, a year ahead—now if a man has more than all that, should he not pay his honest debts?

JOHN H. BEAULIEU. Will any portion of this reservation be sold?

Mr. RICE. It can not be sold; if there is more than enough for the allotments, the balance is still yours, but there is, I think, a provision in the Dawes bill by which, after all the allotments have been made, there is authority given to negotiate for the disposal of the balance, but under this bill whatever is left over is left to you.

GUSTAV H. BEAULIEU. If we accept this bill will you pledge yourselves not to open a foot of this reservation to settlement by the whites?

Mr. RICE. We could not do it under our instructions. But, under the Dawes bill, after your allotments are all made and you are satisfied that every one is provided for, and there is a portion left on which there is no allotment, and you wish to dispose of that, all you have to do is to make your wish known to the President and agree upon the price. It can not be taken from you and the white man settled upon it until your permission is given. Under the Dawes bill you are not compelled to sell the portion of this reservation which is reserved and not allotted to anyone.

GUSTAV H. BEAULIEU. What is the status of the Mille Lac Indians?

Mr. RICE. In 1863 and 1864 the Mille Lac Indians ceded their reservation, but reserved the right of occupancy so long as they do not molest the persons or property of the white man.

GUSTAV H. BEAULIEU. What constitutes the head of a family under the act?

PAUL H. BEAULIEU. Mr. Rice says that every man who is married is the head of a family, whether he has children or not; also every

widower with children; every woman with children who has lost her husband, and every Indian woman married to a white man is the head of a family.

Council then adjourned until the afternoon.

AFTERNOON SESSION

WOB-ON-AH-QUOD. Since we first heard of the appointment of a commission to visit us we have passed many sleepless nights; many have done their best to understand this act, but I and many others do not yet fully understand it, not having the benefit of education, and even the mixed-bloods do not understand it.

CLEMENT H. BEAULIEU. Sr. I should like to ask how the honorable commissioners look upon this: A person who is married to a Mississippi woman and has taken her to the Pembina Reservation—how does she stand in relation to this arrangement?

Mr. RICE. We found men at Red Lake belonging to Leech Lake with wives who were enrolled at Red Lake, while the men were enrolled at Leech Lake. We think that a Mississippi woman who is married to a Pembina man does not lose her rights in your reservation, neither does she gain any rights there; the Pembina man gains nothing here; she loses nothing here.

You are the judges in the matter of the census which will be taken; you know who ought to be on the rolls and who ought not.

Council then adjourned, subject to notification by the Indians that they were ready to again meet the commission.

FIFTH COUNCIL AT WHITE EARTH

JULY 23, 1889.

The committee oppointed by the Indians to consult and report on the subject of the negotiations, Messrs. Gustav H. Beaulieu and John H. Beaulieu, then proceeded, through the first-named gentleman, to read to the Indians the act of Congress approved February 8, 1887, commonly known as the Dawes Act, it being interpreted phrase by phrase, after which a correct and intelligent explanation of the provisions of that act and the act presented by the commission, with a comparison of those provisions, was also made by Mr. Beaulieu, all of which was pronounced by the Indians to be satisfactory to them.

WOB-ON-AH-QUOD. The Indians here express a desire and wish me to try to understand the full purport of these negotiations.

I do not wish to make any definite answer or say anything, except I wish to state a few complaints.

We remember very well the time when commissioners, like yourselves, were here to negotiate with us for the same reservations and for the same purposes. There is one thing I do not see; I have received no information or enlightenment on the questions that I asked.

We have heard there was to be a change made relative to the arrangement that was made here before. We heard also that lawmakers had made up their minds and were waiting to defeat the arrangement we made three years ago, before it reached them, and we heard that the treaty had been rejected by them.

We heard, also, that there was another bill which Congress was about to submit to our consideration; we heard the different points of the bill before it reached us.

We heard that the man whom the Chippewas knew so well was to be one of the commissioners. We also had the pleasure of learning that he bishop, who had worked a long time for the Indians and understood all about them, and whose heart was full of charity and good will toward the Indians had also been appointed.

We also heard of the appointment of our friend, the big doctor, and were pleased to hear that he was a good man and that all he wished was to relieve the poverty of the Indians. We then thought that after accepting those positions you would present to us an act which would be for our good and the benefit of our children in the future. And now you bring a bill to us which has been made beforehand by the lawmakers in Washington.

We understood that you would read the act to us; and if there was anything forgotten in the act we were under the impression that your visit would not be in vain and that we could come to an agreement. The reason we submitted the questions under the act to these two young men is that they can understand better than we. One difficulty is that while I am an aged man, others who are very much younger have the right to sign, and should I not sign, his signing would balance my not doing so. We are something like a blind man, who is told by another not to step in a certain direction, and who may misunderstand what is told him, so that he gets into a hole after all; we may in the same way find that if we sign, it is after all not for our interests. We do not want to act hastily in the matter, and if the commission has nothing more to say at this meeting, we will remain here and discuss it among ourselves.

Council was then adjourned until July 24, 1889.

SIXTH COUNCIL AT WHITE EARTH

JULY 24, 1889.

GUSTAV H. BEAULIEU. We would like to ask whether this reservation will remain intact, or whether the bill provides for the opening of any part of this reservation. We want to know if the commissioners will not reserve the whole of it in order to locate all those Indians who may come here; of course we are uncertain as to the number that will come. Should the commission decide that any portion of it shall be sold, under what conditions will the portion be sold? Will there be a certain number of townships reserved for the future use of the Indians, or will the Indians here present be able to take their claims anywhere upon any portion of the reservation?

Another question is: There are a certain number of Pembina Indians belonging to the Red Lake and Pembina bands who are carried on the rolls in this State, although they reside in Dakota; will those Indians, under this bill, have a right to come into this State and take up claims on Red Lake Reservation, or on the township allotted to them on this reservation? That is all the questions we have to submit now; in fact, they are all the questions.

JOHN H. BEAULIEU. The question is a brief one: Will the Dakota Indians belonging to the Pembinas and who live in Dakota and are on the rolls—we are not referring to those away outside, but those who are considered parties to the Red Lake and Pembina agreement—will they be allowed to take land here?

Mr. RICE. As we stated to you the other day, none will be put on the rolls here who do not belong to the Chippewas of the Mississippi, to whom you object; we will not enroll them. The question stands as it has always stood; we have no power to change it, and if you do not know who belongs here, we certainly can not find out. We take it for granted, however, that any Indians, no matter where they may now be, who are of your blood, will be given all the privileges to which they are entitled. We do not see that you have anything to do with the Pembinas, or they with you. With the exception of the township they have on this reservation, their rights are with the Indians at Red Lake. Is that perfectly satisfactory?

GUSTAV H. BEAULIEU and JOHN H. BEAULIEU. Yes, sir.

Mr. RICE. Now, should your present reservation be reduced; should some townships be taken off, that land will have the same status as the land just ceded at Red Lake. We are distinctly of the opinion that for your own safety and protection you should part with a small portion of this reservation. Power is given us under the act to reduce it if we see fit, but we are not going to exercise any power which would be injurious to you.

You have evidently studied this question most thoroughly, and if you have reasons why the size of this reservation should not
344 be reduced, we wish you would put them on paper and to-morrow morning we will give you an answer. Our decision in the matter will be final, but we want your reasons so we may submit them with our report.

Wob-on-ah-quod then made a speech to the Indians in their language.

GUSTAV H. BEAULIEU. The evident intent of this bill is to consolidate all the Indians in Minnesota upon this reservation, except the Red Lake and Pembina Bands, although it is provided that each may stay on his present reservation if he wishes to do so.

No time is stated when these allotments shall be made, and the Dawes bill will have to be followed in that respect.

The bill provides that if an Indian does not take his allotments within four years after the President has issued an order to do so, a commissioner or special agent appointed for that purpose shall allot him land, so that any Indian who does not take land within four

years after this bill is put into effect may be allotted land by the commissioners upon this reservation. I think any Indians taking allotments under this bill can do so and then go among the whites to reside.

There are quite a number of Indians who belong to no reservation and are still entitled to the same rights as we—the Gull Lakers, for instance; and there are quite a number of mixed-bloods at Mille Lac and around Snake River and in that vicinity, beside other scattered bands of whom we do not know. In case all those Indians come up here and decide to take land here there would not be too much arable land, perhaps. If all the Indians in the State should eventually decide to come here, there would be hardly enough land.

This bill provides that if an Indian has an allotment in severalty, he can not be disturbed unless he consents to it in such form and manner as may be prescribed by the Secretary of the Interior. Now, it seems to be that although some of the Indians at Lake Superior have had their lands allotted to them, they can, under these provisions, come here and select lands, by leaving their allotments on Lake Superior. As I said before, if all those Indians come here there will not be more than enough land to make allotments.

If any portion of the townships of the eastern, northern, western, or southern tiers should be opened for settlement, some of our people would be found settled upon them; whatever was so taken off would be attached to a county—the southern tier of townships, for instance, would be attached to Becker County, which has a large floating debt, and our settlers would be subject to taxation upon their personal property. Their lands, of course, could not be taxed, but I do not believe that those people are ready yet to be taxed at all. They should be first educated to it; that was the cause of the trouble between the Turtle Mountain Indian and the county officers. In order to guard against that I do not think any portion of this reservation ought to be opened for sale, and there are a good many Indians who may want to move here in the course of three or four years.

The commission itself can judge from the number carried on the rolls that there will be none too much land if all those Indians should decide to come here. John H. Beaulieu called attention the other day to the number of swamps and lakes which are good for nothing.

Mr. RICE. Are there others to be heard from?

WOB-ON-AH-QUOD. That covers everything.

Council then adjourned until July 25, 1889.

SEVENTH COUNCIL AT WHITE EARTH

JULY 25, 1889.

Mr. RICE. I wish to direct your attention to the following, contained in what is called the Dawes bill: "The President of the United States is authorized, whenever in his opinion any reservation or any part thereof is advantageous for agricultural or grazing purposes, to cause said reservation, or any part thereof, to be surveyed, or

resurveyed, if necessary, and to allot the lands in said reservation in severalty to any Indian located thereon."

Our instructions read as follows: "The general allotment law of February 8, 1887 (24 Stat. 388), the provisions of which are, by the third section of the act under consideration, made applicable to the allotment of lands to the Chippewa Indians on the portions of the White Earth and Red Lake Reservations to be reserved for the purpose by and under the agreements to be negotiated by you, provides for the allotments of lands 'advantageous for agricultural and grazing purposes,' and 'when the lands allotted are only valuable for grazing purposes, an additional allotment of such grazing lands in quantities as above provided shall be made to each individual.'"

Bishop MARTY. You have heard that the Dawes bill says that only such lands shall be allowed as are advantageous for agricultural or grazing purposes, and that direction is repeated in our instructions.

345 Now, you are in a more advantageous position than a great many other Indians in the United States; you have not only agricultural and grazing lands, but pine lands, which are more valuable. It is the rule of good government that the laws should give the greater good to the greater number, not making one man richer than another. If some were allowed to take pine lands, they would have such an advantage over the others that there would be an everlasting strife, enmity, and perhaps even bloodshed, so we are directed to reserve pine enough for the use of you all in common; all that you can need for building purposes for years to come, the rest being sold for the benefit of all.

Mr. RICE. Our anxiety is to leave nothing behind which shall give you uneasiness hereafter. You have heard the views of the commissioners upon this subject, and we shall be glad to hear your side of it. It may be proper to explain why we went first to Red Lake. We thought it would be wrong to get you to agree to these propositions before counseling with those at Red Lake, so we went there first.

To show you the importance of being careful I will mention that in the treaty made twenty-two years ago you supposed that this reservation was given to you. You lived here under that impression in peace and plenty for several years, but as the white men increased around you it was discovered that your treaty was defective. A weak point was found, and it was this, that the land was not yours and could not be yours until you had done certain work to secure your allotments, which work it was almost impossible for you to do for lack of means. Had proper care been taken at that time that difficulty would not have arisen.

Ever since that defect was discovered you have been annoyed; as you say, you could not sleep. I believe that if your land had been unconditionally allotted to you then, your prairies would now be covered with grain, horses, and cattle, to ten times the extent they now are, because you would have been encouraged to work.

WOB-ON-AH-QUOD. I have not during these negotiations uttered anything that pertained solely and individually to myself. I have uttered the thoughts of others; but I shall now express my own opinion to the commission. While our new father (the Indian agent) is here is a good time to mention these things. We would like to have again made the explanation regarding the Pembina Indians among us. When they first came here we camped very near each other; we were, so to speak, face to face; so when we were asked to relinquish a piece of our reservation to them we did so. We have heard that while they were owning their own reservation they were in interest with the Red Lake Indians. I wish to come to an understanding about this, because I heard last night that they had signed, and that they were going home across the prairie. If they go, shall we have the whole reservation as we had it before we ceded that portion to them?

Mr. RICE. You are laboring under a misapprehension in regard to what was done last night; they did not sign any paper relating to your reservation. The Red Lake Indians told us that there were Pembinas who had some interest in their reservation, and the Secretary of the Interior informed us of it also. The Pembinas have, therefore, signed the same paper that the Red Lake Indians signed, relinquishing any interest they might have there; that was all they did. The Pembinas own the township you gave them, and they propose to take their allotments within it; they claim nothing outside of it. Their reason for going home last night was that they might attend to their crops. What was reserved of the Red Lake Reservation was reserved for the Red Lake Indians alone. We can show you, if you wish, before we leave, the paper the Pembinas signed.

Joseph Charette then made an address to the Indians.

WOB-ON-AH-QUOD. I have not yet said anything relative to the bill; I have not expressed an opinion; I have not said what my views were, whether there was anything good or anything bad in it. Profiting by what our friend—the friend we have had for a long time—said, that the commission did not want anything left to sadden our hearts in the future, I am very much encouraged by it. We have been given to understand that our reservation was 36 miles in every direction, each way—square; inside of it is a large quantity of a very good thing, a substance we all use, called water; there is a large proportion of water within this reservation. There is a variety of land here; a number of acres of tillable, arable land; a very large amount of swamp and mountainous land not fit for agricultural use. There is a large amount of swamp and water also. There are also all sorts of timber—very valuable timber; some that can be used for every variety of purpose; for wagon making and furniture making, but only a little branch of cedar, and that is way off.

If there is any Indian on this or any other reservation who wishes to make a living by agriculture and who is looking to the future,

this is the one place he will look to for good land if he has any sense at all. This is the place they will eventually remove to. This is the place they will want to come to. I see there are a great many who say that there will not be land enough for the whole; that is what I know positively.

There is one thing very pleasing to our ears, and that is what you read to us this morning relative to the pine lands, that no per-
346 son could be allotted pine lands under the law. When I see my way through and understand the whole thing, I shall express my opinion. I shall say, "This is good" or "This is not good." We think it is a very good thing that our new agent should understand all these things. It has been a great source of help to us to have these young men as a committee to explain their views to us and interpret the act to us; it has enlightened us in our views and given us an understanding we could not have otherwise arrived at. We did not ask their opinion as to whether they were in favor of the bill or not; all we wished was to hear from them their interpretation of the bill and take notes in accordance with the questions asked.

Mr. RICE. We are ready to receive any further questions.

GUSTAV H. BEAULIEU. I would like to know if the statements regarding pine lands, etc., applies to this reservation—if that was intended as an answer to our question as to whether any part of this reservation would be opened to settlement?

Bishop MARTY. The pine lands are to benefit all the Indians of the reservation, and not one in preference to another. This can be accomplished by reserving as much timber as you can need, holding it in common. It would not do for you to be compelled to buy pine from the whites. You must keep enough of it for yourselves, but what you can never have use for is to be sold and the proceeds divided among you all equally, according to the provisions of the bill.

The chiefs know the land best, and they are the ones to inform us what they can spare, and what can be sold for the benefit of all. The pine lands can not be allotted under the law, but will be sold by the Government, who will see that a good price is obtained. This will be no loss to you, but a clear gain from year to year. The more pine sold the more principal and interest you will receive, so that you can from year to year improve the lands you retain.

GUSTAV H. BEAULIEU (addressing Wob-on-ah-quod). Do you consider that an answer to the question as to whether the reservation is to be left intact?

WOB-ON-AH-QUOD. When I spoke of the pine, I meant the pine on this reservation. There are various localities where farms can be adjacent to pine in every direction. My idea was that when any person was removed to this reservation he could always be in close proximity to pine.

Mr. RICE. Perhaps we can get at this in another way. The pine lands upon this reservation, over and above what is necessary for

your use, are worth hundreds of thousands of dollars. Now, do you want those lands allotted to a few, or do you want them sold and the money divided among you all? They can not be allotted, and if anyone thinks they may obtain them in that way they are mistaken. We can leave to you what may be necessary to hold in common for your future use so you will not be compelled to pay two or three prices for the lumber you need. If you do not help us you must not blame us if you are not protected. The Dawes bill is plain; our instructions are plain; you have men here educated well enough to understand what has been said and to read to you.

GUSTAV H. BEAULIEU. I would like to say a few words to the Indians. [Turning and addressing them.] I have been for a week past trying to get an answer to a question that I put, I think, very definitely to the commission. I have asked them whether the reservation would be kept intact or not. I think now that I understand their answer. I think that the intention is to dispose of a part of this reservation, because they say that whatever pine may not be reserved for the use of the Indians here shall be sold. They say they do this in order to equalize everything.

Now, they say they can not allot lands except agricultural or grazing lands. Now, my understanding of the Dawes bill is this: That they can survey any portion of a reservation that is good for agricultural purposes, or they can resurvey it if it has already been surveyed, and they can allot lands to Indians thereon. It does not mean by any means that they must confine the Indians to the agricultural lands; that is my understanding of the bill. Now, the commission seem to think that our sole object is to reserve the pine lands and take the allotments in severalty, so that just a certain portion of us will get the benefit of it. Now, they don't take into consideration, but I say, that the allotment of pine lands to the old people who can not work and the chiefs would be a good thing. It is not taken into consideration that all those Indians toward Lake Superior have had their lands allotted to them, no matter where it was, whether in pine or elsewhere, and in that way they have stripped their reservations of the pine upon them. I would like to know whether that is equality? I am first, I have always been, opposed to the opening of one foot of this reservation. Now, as White Cloud has said, there is lots of agricultural land in and among the pine land. I think there should not be a single solitary foot of this reservation disposed of by sale. It is true there is some pine on it, but we can use it all; if the commission don't feel disposed to allot pine lands, the Indians can use it.

I want to say just this much before closing: That if one foot of this reservation is disposed of, that it is the intention of the com-
347 mission to dispose of a single foot of this reservation, I will not sign the bill; I want to be placed on record as to that. I refuse to sign it; I refuse to sign it.

they were ever. If the same course is pursued here, the same consequences will follow. If Congress had foreseen that the Indians of Lake Superior would have impoverished themselves as the result of receiving allotments of pine, that plan would not have been adopted. They have squandered all they received, and Congress don't want you to get in the same condition.

GUSTAV H. BEAULIEU. The bishop seems to think that the people here are incapable of taking care of anything, in case they should receive anything. Now, those people up there I don't consider the equals of these people here; they don't stand in the same position that these people here do. Now, if anybody has traveled among those Indians, as I have, he will know there is a great difference in them; their temptations are greater. Now, for instance, their reservation is right bordering—comes right up to the town—to a town of about 4,000 population. Now, in that town there are probably about fifteen or twenty saloons. Their agency is three-quarters of a mile from the main part of the town—from the post office. Some of them are living about as far as from here to the store down there [indicating] from the saloons. A large majority of the young men, it is true, have squandered their means, and there are some young men who have made good use of it, but the majority of the older men have used theirs in a good way to improve their allotments and build houses; and still they don't compare with these people; that is, I mean, in point of industry and everything like that. Their habits are a great deal different. That is the reason that I say these people here are capable of taking care of themselves, and of anything they have.

Mr. RICE. The Government wishes to dispose of such pine lands as are not necessary for your use, and the reason is this: The land you have taken—the quarter-sections are worth $200 each before they are improved. There are quarter-sections among your pine worth $20,000 each. I say that I know there are on your reservation pine lands which have been estimated at that figure. The question resolves itself into this: Shall we give this man a piece of farming land worth $200, and that man a piece of pine which is worth $10,000? Should we assent to a proposition so unjust, so unfair, you and your children and your grandchildren would censure us. We ought to be censured to the end of time should we do so. The piece which will be reserved will be for you all, all alike. I think the pine on this reservation that is not wanted for your use is worth hundreds and hundreds of thousands of dollars. Are you going to give it to a few while the many receive so little? Are you going to sit here and see the fires consume it? You who are sitting here are responsible for what shall be done now; you are responsible for the situation of your children hereafter, and we expect that you will, like men, assume the responsibility. We are here to help you; but if you will not allow us to do it, we will be obliged to pack up and go home, making such a report of your condition to the great Father

as will be listened to by him. When you point out anything we have attempted to do which is unjust, which is unequal, we will consider what you say with all the patience in the world. Now, if you will take the responsibility of giving this valuable pine to a few, do it; but you will have no help from us. There is a responsibility resting upon us, and we propose to abide by the consequences. There is a greater responsibility resting upon you, for upon your decision depends the welfare of your race for all time to come. If you are the men we believe you are, you will not hesitate to discharge that responsibility properly. You have here well-educated men, who have seen the workings of all civil systems of government, and must decide for yourselves.

GUSTAV H. BEAULIEU. I want to make another statement here. I could wait until the commission go out, but I don't want to make any statement and then be misconstrued. Whatever I say I am responsible for. Now he [Mr. Rice] says that their people will hold them responsible for any act they do against the interest of the children. Now they should also include the present generation; the young men who are now present.

Mr. RICE. I do.

GUSTAV H. BEAULIEU. Then the young men here have agreed to oppose the sale of any portion of this reservation. I think that is the general feeling here. Now, if they want to look out for the interests of their own tribe, their own band, the Mississippis, they want to keep this reservation intact. Now, suppose you dispose of any portion of this reservation, and those Indians over there should fail to take up their allotments, where would they look to? They would look to this reservation, of course. In case you should dispose of any portion of this reservation, who will be censured? It will not be anybody but yourselves. Do you think any of the Indians who have right upon this reservation, no matter where they live, are willing to dispose of any portion of the reservation? If they think so, then they can sign the bill.

Bishop MARTY. He says that the Indians will be censured
348 if there is not land enough; we will be censured, because in our instructions we read that we must keep land enough for all, and we are going to fulfill that duty. "While it is necessary to exercise great care to reserve a sufficient area of land to make the required allotments, it is no less necessary that great care and caution should be exercised to see that the portion reserved for that purpose will be sufficient to make to each of the Indians an allotment of such land as will be 'advantageous for agricultural and grazing purposes.'" This commission will not have done its work until every Indian is provided with land.

I do not wonder that these Indians are distrustful of measures proposed by the Government. Generally the propositions made to the Indians look very well on paper; they are all intended for the benefit of the Indians, but the difficulty comes when the measures

come to be carried out; they are sometimes not carried out as they appear on paper. Three years ago the propositions made to you were adopted by you, but they failed, because it was necessary to obtain afterwards the consent of Congress, which was at liberty to adopt them or not. With these propositions, however, it is different; Congress has acted upon them and they only await your consent. Congress has directed the President to carry out this measure, and he has appointed us for the purpose. We are ready to do it if you are willing, and if you are, we will so inform the President, when he will direct us to continue the work until it is finished. So you see that no other parties can interfere, and if you have confidence in us we shall go to work. Congress now makes you this offer; the best offer ever made to you. If you refuse, while I trust a better proposition will be made to you in the future, I doubt it.

BAY-KIN-OW-AUSH (after addressing the Indians). My friend, Mr. Rice, how will it be if you make allotments; are you going to give any cattle with those allotments, so we can proceed with our advancement? How is that? If you remove anyone and allot him land on this reservation, he will have nothing to eat unless you give him provisions. It took you two years to perfect this bill, and when you came you took us by surprise.

Mr. RICE. There is a provision in the bill by which you can improve your allotments whenever the time comes.

NAY-TOW-AUSH. I have a perfect right to talk here also; I belong to this reservation. [Addressing the Indians.] I am not going to speak very long to our friends who come to pay us a visit, but I don't wish anyone to come and sit me down. [Holding up a silver medal.] I speak on the strength of this, which is some of your own doings. It is now a whole week that we have been discussing this matter, and I was very glad when I heard that Mr. Rice had been selected as one of the commissioners to come here and speak to us; I also felt elated when I heard that the bishop of our church had been selected to come and speak to us, and I heard also that this gentleman had been chosen as a lawmaker to come. When I was looking at the road I was following to come here, I said: "Here is the road that takes me to where I meet upon an equality the commission." Little by little I found out what the purport of the agreement was that the commission was to present to us. When I looked back and saw the condition of my children, I thought that what the commission was about to present was the very thing for my children. I speak from the standpoint of poverty, and we must help each other, my friends. I speak as an individual, and I do not know what my fellow Indians are thinking of this matter; I have a great many half-breeds in my band, and do not know what they will do, but only speak of my own feelings in the matter. To-day I called on the Master of Life to help me in this transaction. I understand the whole thing. I am going to sign that instrument, as I understand it. Even if my signature should

be there alone, I should sign it, for I understand that it is for the good of my people. Everything you tell me I know is for my good, and I do not dispute it. I will wait until Wob-on-ah-quod signs. I do not want to sign first, but if he don't I am going to, anyway; that is all I have to say.

JOSEPH CHARETTE. You say in your talk there will be something to help whoever signs, to help them along, but there is nothing that comes right along with this, so we can start in progress "right straight from the word 'go.'" If we were all in such condition that we already had a start on our farms this money could be well applied, but we are not all in that condition. Would that $9 per capita be sufficient to start us with plows, cattle, etc.? There seems to be nothing extra for any who has not yet made any start at all. We would be willing to take a lot of funds and put them all together; I should like it very much; even the whites are provided for in that way by legislation. I should be willing that half the amount coming to me should go to those who have nothing to start with. Otherwise I think the Indian will be a long time in starting, as he is now stunted in his growth. A great many like myself will make rapid progress under this arrangement, but there are others who will not get on so fast, as they will not have the means. Have you the power to make an amendment for the benefit of those who have nothing?

CLEMENT H. BEAULIEU, SR. The commission was pleased to tell us that the back fund spoken of here would be paid if they
349 could accomplish it. It was said that the chiefs in council would state what would become of that money. You can do that; there is not a half-breed in the whole country but what would be willing to give his share to start those who have nothing. I believe there is not one who would not say, "Let us give them enough to start with."

WOB-ON-AH-QUOD. The commissioners are vested with power, and their recommendation is strength. You [Clement H. Beaulieu] are well acquainted with the doings of the agent under the orders of the Government. You know many orders are sent here to him, whether they are in conformity with treaty obligations or not.

You say that that money should be paid as the chiefs in council shall direct. That time is passed. We have seen very wise things on paper, which says so and so, but we find the agent's instructions are different. If they should only say that this money should be paid as the chiefs in council should direct, then we could do it; otherwise not. Everything the commission tells us we accept as truth. Whenever a law is enacted it ought to be carried out, but so many times we have enacted clauses which were afterwards thrown over. I wish everything to be understood and carried out, owing to the respect that I have for the commissioners. We should like it if there could be something done for our young men under this arrangement so that they could accept it with joy, and so they could start with a sufficiency.

ME-ZHAKE-GE-SHIG. We have listened now for a long time, and our ideas are becoming confused. The Indians understand fully the meaning of the word "respect." We want to carry out the idea conveyed by that word, and we object to anything arising to create any disturbance or mar the pleasantness of the occasion.

You see a great many here, Indians, half-breeds, and whites, and among them many who come only on account of the land, with their ears open to listen to anything that will give them a chance to get an allotment made in the pine. I know a great many come here for that purpose. If the pine lands should be allotted in severalty, you would not see many in council to-day. They would be hurrying out to mark their allotments in pine, and they know where the pine lands are.

We hired these young men to act as a committee, and wanted them to interpret the bill to us, but it is not supposed that because we asked them to present these questions that we would forever keep silent ourselves.

Mr. RICE. We have listened with a great deal of pleasure to what your chief has just said. For a number of years the Government has sent you $10,000 a year to help you in various ways. It is expending thousands of dollars every year in employing men to keep whisky out of your reservation. If your agent, your farmers, your blacksmiths, and the supplies should be withdrawn, what would be your condition? Your reservation would be flooded with whisky, and you would be driven to the swamps. The description of every piece of land taken by you as an allotment, with the name of the person taking it, is sent to Washington. If the whites should look at the books in which those records are preserved and see the very few who have taken allotments here during the past 20 years they would be astonished and would take it for granted that your young men were either idle or are leading the life of the hunter. When the books show that the young men have all taken allotments the Great Father will feel encouraged, and we can more easily induce the Government to send the means here to help you.

The eastern tier of townships contains a great deal of pine, which will bring large sums of money. It is all surveyed; it is only necessary to have it examined and sold, which will not take a long time. If it is in our power to have the Government advance something to give your young men a start we will have it done. We have talked this over, and will do what we can. We know the difficulties you are under and are astonished at the industry with which some of you have earned 160 acres. But if you neglect this opportunity, how much better off are you; what have you gained? You must reflect upon the future.

We wish you to understand distinctly that we make no promises, but we have agreed to do what we can to give your young men a start. We go out on the prairies and see a large extent of territory unoccupied and ask, "Who owns this?" and the answer is, "No one." We look at the records and find it is true. Now, when you have

taken allotments you know as well as we do that no earthly power can take them from you.

You often wonder why the white men are rich, and I will give you one reason. They are under the protection of the laws, so that when the head of a family dies the property goes to the children; when the children die it goes to the family. As you are living now, when one dies without having taken an allotment there is so much thrown away; while under the proposed arrangement the property of deceased persons will go to the family. It is that system among the whites which has enabled them to build railroads, ships, and palaces. Twenty-two years ago, when you acquired this reservation, if the laws had been extended over you, you would have been in a very different position to-day. Now, your decision should not depend on the disposition made of a few pine trees or a few acres of prairie or swamp, but you should remember that this arrangement will give you the same status as the white man.

350 It has been the object of your friends to give you permanent homes, and that is the desire actuating us in coming to see you.

Commissioner WHITING. My friends, you ask how those who take allotments shall live when they are first placed upon them. Do you believe it possible that the Government would do so hard a thing as to send you out on allotments and not provide some means for subsistence? I should be ashamed to have the Government do so. While I can not commit my honorable associates and do not myself know just how it will be done, I believe the Great Father means to be just to you, and it would be a monstrous injustice to bring Indians across the country and put them on allotments with no means of subsistence open to them. I know it will not be done.

Council then adjourned until July 26.

EIGHTH COUNCIL AT WHITE EARTH

JULY 26, 1889.

WOD-ON-AH-QUOD. On account of sickness, for which I blame no one, it is hard for me to fulfill the task allotted me. I am sick because of age and the hard work necessary to support myself. As I have been selected speaker, I will call upon the different chiefs, so that each person's views may become known.

My thoughts to-day are somewhat confused, but I shall try to be explicit. Two of our number were selected because they could read and write to explain the matters set before us and present in writing the questions we wished answered, so we might understand the whole thing. They have completed their task, and I thought that when they had we should all understand it. But one question after another comes up, and we do not like to commit ourselves until we comprehend the whole matter. We do not wish forced on us what we are not prepared to accept, as we might find it harmful rather than beneficial. What we are afraid of is this: The white man's law,

when enacted, must be enforced. Ignorance of law excuses no man under the statute, and if we owe any debt our whole property might be taken to liquidate it, when all we could expect would be a kick from our premises, and we would be left as paupers.

Another thing that has been under consideration is that we do not want to be brought within the limits of the neighboring county, as we would then have to submit to all that that county should put upon us. We wish to know if we can not have a county of our own.

CHARLES WRIGHT. In regard to what has been said by my father, the chief, I would say that, as I understand it, we have under this bill 25 years in which we are not taxed for our land. Am I correct in my understanding?

Mr. RICE. You are correct in what you say.

JOSEPH CHARETTE. In all our 10 days' counseling we have heard the bill read and interpreted only once. I would say that it is not proper that a child should take precedence of an old man who has had experience in councils like these.

We have been here 22 years, and I find the Indians make slow progress in knowledge, and I am fearful of their getting under the law before they are fully prepared for it. In proof of what I say about the probability of the Indians not becoming sufficiently educated in 25 years to understand the law, I would respectfully refer to Rev. Mr. Peake, who has been among them many years. I think this thing should be done gradually.

JOHN JOHNSON. I have lived with these chiefs a long time. When they have been in poverty I have been in poverty. I wish to say that I understand all the explanations made, and I think that what the honorable commissioners have submitted should receive consideration.

Under a past arrangement the head of a family was to receive so much and three other classes each so much. Now the honorable commissioners tell us that each man, woman, and child will get 160 acres, and that if a person selects pasture he shall have additional land, and this benefit is promised to our wives also and your child and grandchild. Was there ever a more liberal offer made to the Indians than is now made to you? Is it possible that we shall let this opportunity slip? We will make a fatal mistake if we allow this matter to pass. My friends, I have been your temporal as well as spiritual adviser, and I have always advised you for your good. I do not know how you view me now, but I am going to take my grandchildren and bring them before the commissioners and sign this agreement in token of my understanding that this is for their future welfare.

CHARLES WRIGHT. A good man need not be afraid of the law; a man who is a criminal is the only one who should be in fear of the law. Will the commissioners please explain to the Indians what would be the benefits to them in having the laws extended over them?

Mr. RICE. There are, as you know, many foreigners arriving in this country every year. They are no more enlightened, many of them,

than yourselves. Some of them are men of bad character who leave their homes to escape punishment.

351 Extending the law over you takes the place of the gun and the knife. I was never more impressed with the importance of extending the law over you than when at Red Lake. I was never more convinced of your capability for administering law or of the honesty with which you would govern yourselves. At Red Lake one man shot another and the agent had him arrested. He called a jury to try the prisoner, every member of which was an Indian. The jury very carefully and intelligently commenced by examining the ground where the shooting took place. They then heard the testimony for and against the prisoner and deliberated many hours. Their verdict would have done credit to the most enlightened people among the whites. You all remember the time when there was no law among you. When the man who committed this offense would have been killed and a feud would have been handed down among the Chippewas. As Rev. Mr. Wright has just remarked, the law was made for criminals. It was made not only to punish criminals but to defend the innocent. There will be no laws over you save such as are beneficial to your people.

Your lands can not be taken from you nor your farming implements, even for debt; but if a man commits an offense upon your persons or property, he will be punished. Your land can not be taxed, because the President holds this land in trust for you. We have talked the matter over among ourselves, with your agent, and some of your intelligent and educated mixed-bloods, and we are all of the opinion that you should have a county of your own, in which case you will be represented in the legislature by those you will choose, when, if any law against your interests is proposed, you will have an opportunity to be heard.

It is within the memory of all your old and middle-aged men when the blacks were all slaves (and I see some here who fought to give them liberty). It seemed to me at that time that they were at least a hundred years behind you in intelligence. They were so ignorant that many thought setting them free would be their destruction. They were not allowed to have the least voice in their own affairs. They were liberated and the laws extended over them. What has been the result? They have since reached the highest positions and now help to make the laws of the country.

I can conceive of no case where an innocent man would suffer by coming under the law, but I can perceive the benefits to him on being placed under the law's protection. No people have made progress since Christianity was founded without the protection of the law. This is no experiment; it has been tried all over the civilized world, among the colored people of the South, as I have said, and for years among the Indians of the Southwest. When this is done, if you wish to be heard in Washington, all you will have to do will be to send your representative there and his rights will be respected. It does not interfere with your persons, your property, or your re-

ligion, but leaves you as free as now. It is natural that you should have some fears, but I assure you most seriously that they are not well founded. If a white man crosses your border or takes your property, even outside of the reservation, the law restores it to you and punishes him. We have discussed this matter at length and can see no way in which your persons or your property can be jeopardized, while the benefits to you will be immeasurable.

WOB-ON-AH-QUOD. Have you agreed that we should leave a county by ourselves?

Mr. RICE. That is what we hope and think will be done.

WOB-ON-AH-QUOD. How do you propose to allot lands; how much to each individual?

Mr. RICE. Our duty under instructions is to allot to each individual, each man, woman, and child, 160 acres, with good title, so that when one dies after having taken such an allotment the property will go to the family.

There is another clause in the treaty providing that a person who takes an allotment of grazing land shall have a double allotment. Now, I must say to you frankly that cases may arise which will perplex us. Not that we shall not have an opinion, but these cases may be so numerous that we shall have to submit them to Washington.

You know that you can take a farm which would be good for cultivation and also for grazing. Before we can act under that clause we shall have to refer the matter to the authorities at Washington, and we trust that you will remember that we have made no promises.

JOHN H. BEAULIEU. Can we have a county by ourselves, even if both Becker and Norman Counties should claim this land as within their borders?

PAUL H. BEAULIEU. There is within the State of Minnesota no power to extend the county laws over this reservation, because its status is like that of the District of Columbia.

JOHN H. BEAULIEU. Last fall Becker County appointed an assessor under the authority of the Dawes bill to come up here and take down what we had and assess our property. George Uran was the assessor appointed. He would not accept it and they had to drop it. He was afraid the Indians would brain him.

PAUL H. BEAULIEU. Mr. Morgan now has a bill before Congress
for the benefit of all reservations, to bring them under the
352 law gradually, in compliance with the Dawes bill. If they
have the power to enact laws in conflict with the Dawes bill, they have the power to recommend that this district shall be laid aside as a separate county.

Mr. RICE. As to that you need not have the least apprehension.

CLEMENT H. BEAULIEU, Sr. We have not enough meadow to go around, and the Indians are even now disputing about it.

JOHN JOHNSON. There is nothing dearer to an old woman than her sugar bush, and they say they will take part of their allotment

to include the sugar bush, but what protection will the old women have when a lot of men go and mark that land in their own names?

Mr. RICE. Those matters will have to be settled hereafter. You need not think that you will escape all responsibility, because when these questions come up you will have to help decide them.

WOB-ON-AH-QUOD. In some matters I am a perfect slave of my fellow-citizens—I mean also those I call my sons-in-law, the whites who are intermarried—they always coerce me into it. I do not wish in my remarks to refer to the places that all these people are occupying and cultivating as their farms. We do not know who the persons are who are going all through the country selecting the very best places and best pieces of land, but we are certain it is not the Indians who are doing it. If we decide to accept this arrangement, would it not be fair to let the Indians, the original owners, have the first selection of allotments? I do not mean the land already taken, but under this new selection.

Mr. RICE. There will have to be a rule adopted as to that, for it will not do to have the question left open so that "grabbing" will be the order of the day. We will give our views to the department at Washington, and request instructions.

JOSEPH CHARETTE. There is a man who has no right here, and we do not wish such to be here and be the source of trouble to us in the "land grab" matter. That man must prove his rights, and we can be guided only by the office files and the names contained in it, which will show who has a right here. We mention this so we shall not be cramped in our selections or deprived of the benefits of the reservation. This is a source of great trouble among the Indians; that he never can be protected from encroachments on our property.

Mr. RICE. You are wise to take precautions, and all cases which can not be settled by us and you we shall refer to Washington.

WOB-ON-AH-QUOD. I would say, in reference to the commissioners' comfort, that we do not wish to keep them from dinner.

Mr. RICE. We are obliged for your consideration, and our colleague, the disbursing agent, will show the same consideration for you.

Commissioner WHITING. When you talk business, I shall hunt moose.

Council then adjourned.

AFTERNOON SESSION

WOB-ON-AH-QUOD. I must apologize to the commissioners for my delay, but my timepiece stopped just before 2 o'clock.

The question now is, how much would be taken of our reservation? At the time the Government decided the reservation should be changed it took our reservation, the one we occupied on the Mississippi River. It made reservations for us in a different direction; that is, in the Leech Lake country, towards the junction of the Leech and Winnebagoshish Lakes and the Mississippi River. We

have understood what has been said by the commission as to how we held thi reservation; that there was a "working clause" under which no one would be entitled to land until he had performed work on the allotment taken; and that is the very reason we have been urging and urging our young men to comply with that working clause. We thought, and still think, that there is a sufficiency of land put into the pool by us, taking the whole of the reservations established heretofore for us on the head waters of the Mississippi and that is why we believe this reservation should be kept intact.

We now wish to understand what portion of this reservation the commissioners think best to cut off and why it should be done. When we come to that understanding, we see no impediment to an agreement, and hope everything will run smoothly. We value highly the words uttered by the chairman of the commission and assented to by his associates, that nothing should be left which would in the future cause trouble. We are obliged to you for uttering these words.

Mr. RICE. After making inquiries at the office here and of others in regard to your pine lands, we have concluded that it is best that you should dispose of four townships. We at first thought it should be six townships, but upon ascertaining how the pine lies, your improvements, and the facilities for getting down your rivers, we decided that four townships could be well spared.

353 Many years ago the pine lands in Wisconsin were given in allotments to the Indians, who sold the pine to the white men. Their pine is gone. The land they have remaining is not suitable for farming, so they are now poor, and some of them are even now trying to get permission to come to your reservation. You will all remember that it is but a few years when a great deal of trouble was taken to save your pine in the north. It cost you many sleepless nights. If that plan had succeeded, every good tree you had would have disappeared by this time, and you would not have had a dollar left for the whole of it. You know the friends who saved that for you, and you know that to-day the pine is worth many hundreds of thousands of dollars. Wherever there is a pine forest belonging to the Indians it is now, and always has been, and always will be, a source of endless trouble. It is only a few years since the department had to send to the Lake of the Woods for a man who was acting in the interest of a lumbering party, take him down to St. Paul, and keep him in prison for a year.

There is another reason. You all know that your pines are burning. At Red Lake we counted at the same moment nine places where it was on fire. Every year the number of fires will increase. Every tree now burned is your loss; after it is sold every tree burned is the loss of the white men. Your trees are being stolen and burned, and so growing less valuable to you every year, resulting eventually in your getting nothing for them. Your pine is already surveyed, can be soon examined and sold, and the money put into the Treasury for your benefit. This arrangement is not only to relieve your minds

of all trouble and care on this account, but to furnish a fund to assist you in your legitimate business of farming. I hope these reasons are satisfactory to you.

WOB-ON-AH-QUOD. Is it the policy of the Government to cut off a portion of each reservation?

Mr. RICE. It is not the policy of the Government to reduce the size of any reservation which is necessary for your future or beyond what is required for your good. You may think it hard that we do not yield in giving you some things you want. Should we do so, and it should appear in the future that we were wrong in yielding, and that you were wrong in asking it, although it was at your request, you would throw the blame upon us. There are some things we can see which it is not supposed that you can. When the allotments of pine lands in Wisconsin, of which I have spoken, were asked for it was not seen that harm could come of granting the request, but it was found, to the sorrow of the Indians, that harm did come of it. It is our duty to point out the evils which would arise should we yield to you in these minor matters. It would be better that we should leave a hornet's nest in every man's hat than to leave your pine in its present situation.

JOSEPH CHARETTE. The reservation on the Mississippi, which contains a large pinery, belongs to the Chippewas of the Mississippi, and the question is if it is not better, when a man has two yoke of cattle, to dispose of one of them at a time? That is the light in which we look upon this matter.

Bishop MARTY. If that yoke of cattle gives him a deal of trouble, he had better sell it when he can get a good price. Mr. Rice, who has had 42 years' experience among you, has explained that if more pine is reserved than is needed for your use it will be only a source of trouble, and that the more pine sold the larger will be your receipts from it.

It was said yesterday that you were anxious to have your young men take up lands and cultivate them. If you sell the pine you do not need, you will obtain the means to improve your farms. There will in any event be pine enough reserved for your use for all future time. The pine sold is not lost to you, but is so much gained. The sooner it is sold the sooner you will escape the miserable condition in which some of you now are. You will then not be dependent upon the snake root. You will have money of your own, which can not, like the pine, be burned or otherwise taken from you.

WOB-ON-AH-QUOD. When you visit the other reservations occupied by the Chippewas of the Mississippi, if they should say to you that the White Earth Reservation belongs to us in common, what answer will you make to them? If you want to cut off a portion of this reservation, your answer will naturally be, "We have given the people of White Earth Reservation what we thought was a sufficiency for their use; we have cut off a portion because we did not think they needed it."

Mr. RICE. The answer will be an easy one. Three years ago they refused to come here. They have always refused, and even treated the commissioners' proposition with indifference. They said that that was their reservation, and that this was yours. Their words were regarded in Washington, and they will be permitted to remain there It is considered by every one that what you do regarding this reservation is final, and we do not apprehend any difficulty about their signing. The Great Father has taken them at their word.

WOB-ON-AH-QUOD. As we now know Mr. Rice to be our friend, three years ago we knew Bishop Whipple to be our friend. The same strain of language was uttered by the commission of three years ago. They put a paper before us stating that the In-
354 dians of Red Lake, White Earth, and all the Indians in the State should be consolidated into one band and removed to this place, and that we would all eat out of the same dish. At that time I uttered these words: "I shall not touch the pen for any consideration, ceding lands which I have no right to cede; and I have no right to cede any of the Red Lake lands." Bishop Whipple told me that "if the Red Lake Indians did not comply with the terms set before them all the Indians of the State should be consolidated; this agreement we have made with you is null and void."

They went to Red Lake and the Red Lake Indians entered into a different arrangement, ignoring the agreement we made to consolidate the Indians here. The Red Lake Indians would not agree to the consolidation. When those commissioners returned here we expected to meet them again, but they did not remain here to tell us that the Red Lake Indians would not agree to the arrangement made here. The arrangement entered into between us here with the Northwest commission was taken from band to band and fixed in such a way, a little here and a little there, that before they got through the whole thing was in a state of chaos. And still they took that arrangement and consolidated only a few where they could get signatures. That is why I am so anxious about this arrangement; not that I think there was any weakness in the Northwest commission—far from it—but it is only to guard against what might happen. I only wish that, should this compact not be entered into by those on other reservations, the whole thing should be understood before going to the Great Father.

Mr. RICE. To avoid all complications we concluded to go to Red Lake first, resolving that if we did not succeed there we would hold no other council, but go home. We explained patiently everything they did not understand and to their entire satisfaction. There was no haste about it, and we waited until they came to a conclusion. We had no private councils; everything was done publicly, and we thought we were coming down here in a strong position. When we first arrived we sent for some of the Mille Lac Indians, but we do not know yet what the prospect of our seeing them is. We have not and shall not make any promises, but if you wish to reject this treaty

we shall not go to Mille Lac, nor to White Oak Point, nor to Lake Superior, but we shall go home. We do hope that you will be united one way or the other, as we do not wish to leave you divided.

WOB-ON-AH-QUOD. It is with delight that we look back upon the character of these negotiations. They have been pleasant throughout. You have not hurried us in the least in all our deliberations, but have been very patient in answering all questions which would lead to our enlightenment.

It was very different three years ago. Matters were hurried so that a great many things we could have settled then were allowed to slip through our fingers. But you have advised us in every manner, shape, and form, so that it has been impossible to misunderstand the best way in which to lead our young men to progress and prosperity.

Now, young men who are listening to these deliberations, you may think we are foolish to ask all these questions, but it is for your benefit, and you should be constant in your attendance here, so as to profit by the counsel of the commissioners. We have now arrived at the point we desired. The commissioners have put explanations in simple language so we might understand. We are aware that they were appointed to negotiate with us and how can we help having the most explicit confidence in them? Everything they have promised they have fulfilled, leaving nothing to mar our insight into the propositions. If there is anything not definitely understood you may now ask the commissioners about it.

Mr. RICE. After we get through we will have to take a census, and we wish as many of you as possible to be present so you can see there is no mistake made. We shall leave a copy of the census with White Cloud, so that you can always inspect it. This is the most important census ever taken, and it will require some days to get through with it.

WOB-ON-AH-QUOD. Is the one-fourth of the $90,000 mentioned in the bill which is to be devoted to the schools to be divided pro rata over all the reservations?

Mr. RICE. The language of the act shows how it is to be expended.

WOB-ON-AH-QUOD. How many Indians are there at Red Lake and beyond?

Mr. RICE. I think the number on the rolls at Red Lake is less than 1,200. We have the record in our office.

WOB-ON-AH-QUOD. Can you tell the number of men at Red Lake?

PAUL H. BEAULIEU. Two hundred and seventy-eight.

WOB-ON-AU-QUOD. We understand that all the expenses incurred for surveys and everything of that kind pertaining to this negotiation is to be paid by all the Chippewas.

Mr. RICE. That is to come out of the general fund, but not at first.

WOB-ON-AU-QUOD. We wish to understand it thoroughly on account of the status of our fellow Indians who are upon other reservations. You have stated to us that the sum of $3,000,000 would be considered as a permanent fund. At what time shall we begin to pay what we owe on account of the expenses of this arrangement, the surveys, examinations, and everything of that kind?

Mr. RICE. The bill reads that those expenses shall be paid when the fund reaches an amount in excess of $3,000,000 sufficient for that purpose. When the principal reaches that sum, the $90,000 payment ceases. Until then you are to have the $90,000 every year, and the interest that has accumulated in the Treasury. When the fund amounts to $3,000,000, the settlement takes place, and from the best information obtainable we expect the amount will far exceed $3,000,000.

AFTERNOON SESSION

WOB-ON-AH-QUOD. It is pretty hard work for me to attend this council, as my health is poor, and it is only the magnitude of the interests which induces me to come. I wish to ask again a question about the schools. There is now a sum due us for the maintenance of schools; what is to become of that fund?

Mr. RICE. This arrangement is entirely separate, and will have nothing to do with the old one regarding the schools.

WOB-ON-AH-QUOD. Most of our people understand now about the allotment of land and the payments in accordance with the revenue from the sales of the land. I wish to say that the method of the Government is to send inspectors here, but all they do is to inspect inside of the office, but they are generally unacquainted as to the workings of the agency outside. The difficulty with the Indians is lack of means. You mentioned the other day that you had been on the prairie and seen lots of land in its wild state. We know that it is so, and the cause is that the Indian is destitute of means to carry on his farming operations. Sometimes the very thing that he has planted will go to ruin because the Indians have not the implements to harvest the crop. Sometimes the Indian harvests his grain, puts it into shocks or stacks, and asks for a threshing-machine, but there are so many of us on the reservation in different parts of it that our wishes can not be complied with, and we have to wait day after day until the grain is ruined. Why is this? It is because the Indian has not the means to get any one to thresh for him. I once invited an inspector to go along and see the condition of the fields and observe how the Indian was getting along in his farming operations. He said he would go, but he changed his mind very suddenly, and made us no visit except in the office. Sometimes our crops are ruined by a cyclone or hail or otherwise, and we ask that in pity a few grains be given us, but the agent generally tells us that it has been applied for and is intended for those who can not help themselves; those who are not far advanced. We finally discover that the seed-grain is to be divided among us in common; among all the members of the reservation. Those who can talk the best get the seed-grain first, and many is the time the Indian who has no cattle, but who through his energy has got a little land plowed, receives no seed, while those who do not need it get it all. That has happened many times, and is why some of us have been kept back.

We do not blame the Indian agent for these methods, but when there is anything issued, who gets it? It is issued to our sons-in-law instead of going to the Indians. I mean the whites who are intermarried with our families. They are the ones who can ask most readily. They have no hesitation in asking, and we find those things are given to those who are most persevering in begging; those are our sons-in-law. While we are waiting for this arrangement to be completed the best part of the land to be allotted is all marked out. Who marks it out? It is those who are so solicitous for their own interests and those who have more foresight than we. Now, who ought to have the preference? Is it not the Indian who originally owned the soil? He ought to come first and others afterward. That is the way we view it. I am laying these facts before the commissioners in the presence of the agent, as we have heard that he was a man so partial to justice, and it is mentioned as a safeguard for us. I mention it for the protection of the poor and destitude Indian.

Those who are intermarried among us take advantage of the Indian, and in time, if these is no strong protection thrown around the Indian, after he has taken land, the others are just selfish enough to put the Indian at one side and say the claims are theirs.

Everything in the act has been so well explained, it looks so fair and plausible, that we are favorably disposed toward it, and are merely throwing out these suggestions as safeguards, so that justice will be done to those who are poor, needy, and ignorant, and so that no advantage shall be taken by those who have superior knowledge and education. It is not inclination, but want of means, which keeps many here in poverty, while others around are progressing. We implore you to help us in this matter of getting Congress to appropriate the money which is justly due us. We make the same request in relation to what is due to us on account of the damages caused by the overflows at the headwaters of the Mississippi. We are anxious to get those sums. It will not be squandered, but will be used to help our progress, and you will be justified in asking for the money for us because you are well acquainted with our condition. We have submitted this question to you, Mr. Rice, many times, regarding those arrearages, and told you we had not received a single cent of the amount. We did not know what the amount was, but you kindly informed us that the money was still in the Treasury of the United States. You told us the amount of it, and we are very much obliged to you for doing so.

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If I was a young man, and had the advantages now thrown open to these young men through the sale of the lands, I should actually overflow with joy, and should certainly profit by the opportunities now offered. I wish every one to be impressed by the advantages offered in the bill, and with the kind consideration shown by the commissioners. There is only one thing we always fear, and that is that after we have entered into an arrangement of this kind, something springs up so that the agreement remains in part unfulfilled,

which is why we are so suspicious of these affairs. It is the duty of the leaders of the bands here to tell their young men in what light they view this bill.

JOSEPH CHARETTE. At what time do you suppose we shall realize any benefits from this bill? Do you think it will be soon? We would like to know what amount of money in your opinion will be received per capita the first year, in accordance with the data which you have.

Mr. RICE. When these papers are executed and approved by the President, we think you have complied with the conditions, and that the $90,000 will then be ready to be sent. As near as we can ascertain from the census, each man, woman, and child will be entitled to $9 out of the $90,000. Of course the interest money paid will, as to its amount, depend entirely on the extent of the sales.

JOSEPH CHARETTE. If nothing happens it is to be expected that the Indians will augment in numbers, and that the additional ones will also receive the benefits of this bill.

Mr. RICE. That is one good feature of the act, that its benefits shall be equal.

O-JIB-WAY. When the young men have taken allotments they will be on them without implements, and the Government ought to furnish means to work the land. We wish to have cattle and agricultural implements.

ME-ZHAKE-GE-SHIG then addressed the Indians.

JOSEPH CHARETTE. Men of this reservation, I am about to do something for your benefit. If I did it alone, without being assured of your support, I should feel weak, but I hope that my example will be followed by all those pertaining to my band.

WOB-ON-AH-QUOD then addressed the Indians.

ME-ZHAKE-GE-SHIG. The time has now arrived when every one understands what he is about to do. I wish to say that whenever we have heretofore made agreements with the Government, that the sum we were to receive has been diminished from some cause. I mention this only to show what has transpired in the past. The chiefs have to bear the brunt of this, when what was understood by the young men was not fulfilled.

In time to come, many years from now, I shall mention twenty years, because I intend to live twenty years, and don't let my young men forget it, we shall be glad this arrangement was made. Our missionaries tell us that whenever we have committed any act for which we are sorry, to get down on our knees and implore the pardon of the Master of Life. It may be that at some future time I shall have to ask pardon for not understanding this act better, but I hope that time will never come. [Shaking hands with the chairman.] I am afraid that I shall not see the fifty years pass, but I shall try to see the twenty.

MUCK-KUCK-EENCE. I am the successor of the chief Fine-day. That church over there stands as a monument to his ability, to-

gether with Mr. Johnson's, as they are the men who obtained the subscriptions.

WOB-ON-AH-QUOD. We have come to an honorable conclusion. We wish you all to think over this matter and follow the example of the chiefs because we think it is for the good of all. The time has come when you are left to act for yourselves. Young men, exercise your judgment. The white man is withdrawing his guardianship over you, and you must carry out the policy of the Government in that respect. Whoever is not improvident shall be benefited by this agreement. I should like to have two copies of this agreement left here, as I should like to have one, so that I may keep it in mind.

Mr. RICE. We shall have copies enough sent here, so that the chiefs and others may all see it.

JOHN JOHNSON. We can not say that we are extremely happy in this action of ours, but still we consider that it is imperative. It is but a short time since the Government was not as strong as now. What marred its success was wiped out by the war of the rebellion. At the time the American Government found it had to fight against its subjects to carry out its principles, many were led to subscribe to the cause because the question was, to die or to conquer. We sign our names to-day with a similar feeling. We sign this agreement to conquer poverty by our exertions. We crave your help; we implore your aid. We pray that you will place before the Government of the United States our true situation. We do not wish to be thrown aside, nor have the protectorate of the Government withdrawn, because the time is not ripe for it. We crave your
357 assistance; with your aid and protection and advice we shall certainly make progress. We crave also this special favor at your hands, that you demand leniency from the Government in our favor. They must not precipitate action on our part, thinking that we move too slowly. We promise cooperation so far as our strength and understanding permit. We crave and beg that you will help us in our efforts.

Mr. RICE. Our assistance will be cheerfully given.

NEES-KE-GWON. I am one of the leading chiefs of this reservation and wish to know whether the signatures are in compliance with law and whether the provisions of the law will be carried out in accordance with the explanations?

Mr. RICE. They will be.

The names of the chiefs and other male adults upon the rolls were called, each one stepping forward as his name was called and signing the agreement.

The chairman read a letter from Mary A. Sloan, asking to be included in the census, and inquired if she should be placed upon the rolls.

ME-ZHAKE-GE-SHIG. We can not deprive her of her rights, as she is a member of the bands of the Chippewas of the Mississippi.

PAUL H. BEAULIEU. We wish to know whether it is proper to receive signatures by proxy.

Mr. RICE. If the proxies are authorized to sign, and the chiefs say that it is right.

AH-BE-TWAY-WE-DUNG. I wish to say before signing that of the little annuity money sent here every year there is always something lost.

JOSEPH CHARETTE. We wish to ask this question: If there is a mixed-blood who has real estate outside of the reservation, has he a right to have his name placed upon the roll?

Mr. RICE. That is a matter for decision among yourselves. We shall put no one on the roll to whom you object. Every person, of course, who appeals to Washington will have his rights properly adjusted.

WOB-ON-AH-QUOD. It is decided that Joseph Woodbury should not be excluded, as his father Hole-in-the-day, was one of the chiefs.

JOSEPH CHARETTE. We wish to inquire how long the shops will remain closed. We have not money enough to run them for a while yet.

Mr. RICE. The shops that are now here?

PAUL H. BEAULIEU. Yes, sir.

JOSEPH CHARETTE. The Great Father shut up the shops and everything we have here tending toward our advancement, which has put us in a bad predicament. Can not these shops be continued now? It would certainly strike the Indians very unfavorably if the shops were taken away before we had the means to pay for anything. We certainly need blacksmith and carpenter shops. We beg that you will lay this matter before the proper authorities in Washington.

Mr. RICE. Your blacksmiths, carpenters, farmers, and police are all now paid by the Government. The money is sent as a donation from the Government, as well as that which is spent in the maintenance of your schools and the provision made for your sick and needy. Your agent informs me that the money for these purposes has been appropriated for the coming year. We will endeavor to see that these appropriations are continued until you have an ample fund of your own.

WOB-ON-AH-QUOD. I wish to say a few words, as all those present who can sign have done so. It is a source of congratulation for the Indians that we have come to such a favorable understanding; that we have accepted your propositions; and that we accept them so understandingly.

As the time approaches for the work under this act to commence, we are afraid that there are some directions in which our new father, the agent who has lately come among us, can not meet the wants of our people by reason of the limited means at his command. There are yet some funds due us as proceeds of the stumpage. It is quite a long time ago that I asked the late agent about that money. He told me that money was there yet and that it had not been spent. I can not tell the exact amount to our credit on that account, but I

should think from what I heard the agent say that it does not amount to far from $5,000; it may be upward of that sum. So in case our father should be at a loss in trying to get something for us in other directions, as we are in poor circumstances at present, if he should be called upon by us to alleviate our wants, I think he could do it by having recourse to the stumpage fund. It is true the old agent is not here, but his clerk is, and, of course, they must know how much stumpage money there is on hand. We are very short of provisions now on account of losing our crops last fall by frost.

B. P. SHULER. I am glad you have brought this matter up. I have not looked the books over in the office to see what amount of funds there is, but I presume they will show the amount of stumpage fund. Should the necessity arise, I would not hesitate a moment to apply to the department for the right to expend any portion of that fund or the whole of it for your benefit. That is as far as I can go, as my application to the department might be denied, which would not be my fault.

358 I have already, since coming here, applied to the department for 50,000 feet of lumber for your school and other buildings. Further than that, I have asked the department to have cut this winter for your benefit on this reservation a million feet of lumber. I had two objects in making this last request. One was to give your young men employment next winter; the other was to see if I could not have better homes for you than I now see some Indians living in. I can ask for these things with as good grace as any man, and the Government can only grant or refuse them.

I intended to say a few words to you before the councils were ended, and I may as well say them now. I wanted to thank you for your genteel and pleasant manners while taking part in these councils. Your conduct during these deliberations has been equal in dignity to that of any body of men in any country. I have been watching you, as your agent, very closely to see that you made no mistakes, but the manner in which you have in detail examined the measure proposed convinces me that you need no watching.

Now, I want to say to you that when those councils terminate I would like to see your young men go home and go to harvesting their crops so as to save them. There are probably many among you who have no facilities for making hay or taking care of your crops, and I would like to see you all exhibit a generous spirit toward each other, and assist those who have not the means of taking care of themselves. Push them along and get them to the front. I want to see you lay aside enough for a year's supply for yourselves and your cattle. You must remember one thing: that in industry lies your prosperity.

When the schools open I should like to see all of you who possibly can get their children to school and have them educated. It will be a great help to your children, and will prepare them to fight the battles of life. I will make no promises as to what I shall be able to do for you further than to say that you shall have assistance as

far as I can give it to you consistently with my duty to the Government and to myself.

NESH-KE-WE-GAH-BOWE (addressing Major Shuler). While you are speaking, I would suggest that the road from here to Red Lake is a very bad one, so that I have to get my wagon repaired every week in carrying the mail. If you can take a hint, you can take that one.

B. P. SHULER. I know it is a very bad road. I have been over it myself, and so I can bear out that statement.

Council then adjourned until July 29.

NINTH COUNCIL AT WHITE EARTH

JULY 29, 1889.

WOB-ON-AH-QUOD. I wish to say a few words relative to the benefits to be derived from this agreement between the Government and the Indians. Here is an illustration of the truth of one thing that was told us. There is one who will be buried to-day and who will lose his inheritance because he was not included in this agreement only (referring to his grand-child). The Master of Life gave us that child. The Master of Life has taken that child away again. Although I am weak with sorrow, still I have strength to say a few words. I wish the indulgence of the honorable commissioners until this afternoon. I wish then to have this hall filled with my young men, so that I can give them my last advice relative to this agreement. I wish to point out to the chiefs and young men the necessity of having their affairs in a settled condition, because while we are in life we are in death also. We can not tell when we will be called away. I wish to impress upon my people the fact that age advances gradually on all of us. There are many of us who have passed middle age and are coming toward our end, and we should remember the necessity of making such arrangements that we can leave an inheritance for those coming after us.

I wish to state in open council that all the explanations given us by our friend Mr. Rice and his associates have delighted us, as they have been so plain that we could not fail to understand them, and I wish to express the thanks of our bands for those explanations.

One thing said by the commissioners was this: That they did not wish anything left unsettled, which might lead to future misunderstandings. There are two things I thought best to ask, and one of them especially might lead us into some trouble in the future. The Red Lake Indians have furnished a great amount of means to enable the Indians to all eat out of the same dish. We consented to have a township set apart for their use on our reservation. They are now occupying that piece of land.

An arrangement has been made with Red Lake Indians, which includes the Pembinas, but we fear that the Pembinas do not care to go up to Red Lake, and we wish to know if they will participate in the common fund, and not remove to Red Lake but remain here.

They will take their lands here on the township ceded to them. If they want to participate with us, as they have nothing to put in
358 the pool, where are the funds coming from to make their share of the pool? We as a tribe consolidated all our means, no matter where the Indians were located on other reservations. But the agreement with the Red Lake Indians is that no others can go there, and if they have an overplus of lands which they wish to dispose of in the future, they will have the sole benefit of the sale of those lands, which will not go into the pool.

But there is another thing which has always troubled us. When we removed to this reservation there was a stipulation made by which we were paid six months after the removal.

But we now open our reservation to all those who have a right to come, which is the understanding with which we sign. Our understanding was that we opened it to Indians as well as mixed bloods belonging to our bands and being related to us; but come to find out, we are opening the reservation to the whites also.

There are a great many Indians who will remove here because they are destitute of means and because they will be free from taxes. The whites sell their property and come here to exempt themselves from taxation, and they are the ones who are so selfish that they want everything they see. We have always ignored that in the past, but we thought we would ask any commission that had the power to redress our wrongs. Any man who wanted to come here did so, depriving us of our rights and robbing us, selling the property he had before he came.

We have no objections to any one signing who has a right to do so, but we do not wish any white man to sign, either for himself or his children. If he is a white man he has no right here. The white men have a great many children; they are prolific. There ought to be a line drawn somewhere, and it should be drawn while the honorable commissioners are here. That line ought to be specific, so that we can guard against all these things; otherwise there is left too wide a margin for these people to enter. Those who are here and who have made it their home with us before this arrangement was perfected we wish to retain, but now there will be no end to emigration into this country by those claiming relationship with us, until there will be nothing left to support the flock of people who will arrive. We protest against any one coming here after this arrangement is made and the rolls are taken. There will be a great many coming here to marry into our tribe just for the purpose of picking out the choice pieces of land.

Mr. RICE. As we have told you, no one will be permitted to settle here to whom you object. We have seen enough since coming to satisfy us that we can not be too careful in that matter. Should we come here, as we expect to, to make the allotments, no one shall receive an allotment without your consent. We shall not open the door to such people, nor will we assist others to do so.

We know that you have had considerable trouble owing to the interference of the whites. We have seen enough to convince us that the intervention of the agents in affairs which appertain exclusively to yourselves has given much trouble. There are many matters which should have been submitted to you which others have taken it upon themselves to determine. We are in favor of your being consulted in this and all other matters pertaining to your welfare. We are informed that trouble has already arisen in consequence of the agents taking it upon themselves to say who should and who should not have allotments.

There are many things we have not had time to explain to you, and this is one of them, but after this arrangement is consummated the courts will be open to you as well as others. Those who have no rights here, no matter how long ago they came or what their improvements are, can be put off. We have consulted about this matter and have determined to stand by you. We are, of course, not going to disturb any decision you have made on this subject.

Regarding the Pembinas, who belong with the Red Lake Indians, although settled here, I suppose their annuities will be paid here. Since we arrived a messenger has come to us from Red Lake to object to a few whom they allowed to be put upon the roll while we were there. I mention this to show that they now comprehend the position in which they are and the power they have.

I will say to White Cloud (Wob-on-ah-quod) that our hearts are heavy with sympathy for him in the bereavement of which he has spoken. But do what we may, we can not stay the footsteps of the Master of Life.

JOSEPH CHARETTE. I wish to say that liquor and intoxicating beverages have always been considered a bane to the Indian and as something which should be forbidden to be brought amongst us. It has been alluded to but slightly in these councils.

We lay the matter before the honorable commissioners so that this one great object will not be lost sight of, so that the laws protecting the reservation from the liquor traffic will be enforced and so that you will recommend that the laws be kept in force. And also that you may recommend that no one who is employed in the service of the Government should be allowed to use any intoxicating liquor on account of the baneful example.

The agents have been very backward in reporting any cases of inebriety among their employees. You can see how far that
359 tendency among them has gone when I mention that even the men in whose hands our lives are when we are ill—even those who come here to treat our children in sickness, are inveterate drunkards and are finally removed because they are insane from drink. Are our lives safe in such hands?

The Indian agents sometimes employ men whom they know are addicted to liquor drinking. It is about time that this matter was corrected, because it is injurious to our people. If a man who is

employed in the service of the Government becomes inebriated, he should be punished, at least as an example before others.

While there is a law that Indians living here should be given a preference in the matter of employment under the Government, that should be enforced. We do not allude to anything that the Indians are incapable of doing. Of course, if an Indian employee should be guilty of an infraction of the laws he should not be excused because he is an Indian. Also, if a trader should be known to use liquor or to bring it upon the reservation, he should be punished. I hope my few remarks are thought worthy of your consideration, because we deem the subject important.

Mr. RICE. The remarks just made are worthy of the greatest consideration. Your present agent has been one of the leaders of the temperance movement in the legislature. He never drinks a drop of liquor or has any in his possession, and he would be very severe upon anyone on the reservation who broke the liquor laws, no matter whom he might be. There was passed last winter by the legislature a law punishing not only those who sell the liquor but those who drink it and become intoxicated, and your agent was one of those who helped to pass that law.

Regarding the employment of those of your own blood, I think that it is now pretty well understood at Washington that none but Indians or mixed bloods, when they are found capable, shall be employed. We have found some of our work here extremely difficult, yet some of those of your own blood have shown themselves perfectly competent to do it. We have only employed one white man to do the work which none of you could do, and hope in a few years that you will have some one who can do that work. Are there any others who wish to be heard?

If there are no more speakers, will you fix the hour to which we shall adjourn?

WOB-ON-AH-QUOD. If it suits your pleasure we will adjourn until 2 o'clock, so we can get through at 4 o'clock in time to attend the funeral.

Council then adjourned until 2 p. m.

AFTERNOON COUNCIL

WOB-ON-AH-QUOD. It has been my wish that there should be a full council this afternoon, and I desire that the chiefs will relate what I shall say to any of our young men who may not be here.

Young men, you deserve great praise for having taken the course you have adopted in these negotiations, not having spoken your own views, but having left it to older and wiser heads to deliberate in a matter of such importance. We have taken pains to guard your interests on all points connected with your welfare, and believe that we have not tried in vain to achieve this. We have acted for your benefit solely, and for the benefit of those who will follow.

It has been my lifelong ambition to appear in open council before commissioners such as these, to express my views and show to you how deeply I feel interested in your welfare, desiring to guard everything essential to your good, and to lay before these honorable commissioners, whom I have so long waited to see, all matters pertaining to your future.

After mature deliberation, after discussing this bill in all its phases, and listening to all the explanations laid before us, we have concluded an arrangement which is wise in every respect, and I am glad that we have ratified it by our signatures. It is true that it has been a tedious negotiation, but that is no cause of complaint, as we have arrived at a satisfactory determination. In all our transactions with the Government of the United States, in all our negotiations and treaties with it, benefits have been promised, but of them all where will you find one that so distinctly guarantees to us and our children such good results? Never was there a negotiation concluded with the Chippewas in which a permanent home was provided for them; this is the first time we have seen it.

Before the plans regarding the land that has been ceded are completed $90,000 is kindly loaned to us, to be placed in our hands, and which will be a source of great help. We shall not only receive the $90,000; that is but the beginning of what will come to us for our future welfare. It will accumulate year after year, and we can ourselves observe its increase. I am on the brink of the grave, and I leave this as a legacy to you. It is, as it were, my last will and testament. Take this advice as a friend. Young men, study charity in all its bearings. Be lenient with each other. Do not try to overreach, but be kind to one another, and if you follow these precepts you will have peace and prosperity. Look at it from the
361 standpoint of those who are well advanced in age. Many of you who are listening to me will not see the end of the fifty years mentioned in the bill, but those who are then alive will see the benefits that will accrue from this agreement. Those we leave behind us will see those benefits, but many that I see will fall before that time. So we can only bear in mind that we have done our best for our posterity.

Young men, profit by the great chances placed before you in the establishment of schools. Do not neglect to send your children. Coerce them, if necessary, and it will be a source of pride to you. Look at the young man who has just stepped forward and signed his own name before the commissioners, and if you wish your children to succeed, educate them so they may do the same.

Study all the chances open for your children's good. Our agent kindly tells us that a gentleman will soon be here to see about children to send to the school at Carlisle, a great distance from here. If any of you think it is proper to send your children down there, do so; if not, there are good schools around us, but I beg of you all, give your children the benefits of schooling, either by persuasion or coercion. Do not let the white people make all these efforts for your

advancement in vain. Just look around you. A short distance from here much money has been expended in building a magnificent schoolhouse. Send your children there. Look at this school building in which we are; all for your benefit. So, I say, do not miss this chance to profit by what has been done for your children.

Under this arrangement all possible advantages of standing before your fellow beings as men and not as children are given you, the advantage of protection under the laws and opportunity for advancement. All you have to do is to be economical and prudent. Be considerate toward each other in your councils and never harm one another. If you continue in your old way, thinking that revenge is sweet, remember that that is not the way to be good members of society.

In your intercourse with the whites, whether inside or outside of the reservation, politeness and respect on your part will be returned. Instead of looking upon the Indian as a thing they will regard him as an immortal being; they will embrace you in friendship and consider you as men.

Now I have a few words to say to the chiefs. You have heard the advice I have given the young men and my reference to the articles we have signed. Chiefs, I call upon you to take a new stand; I call upon you to leave that old road to perdition which you once followed, putting it behind you and taking the road of virtue and prosperity. Follow that and advise your young men to do so. They will be sure to practice what you show them by precept and example and will cluster around you more and more for counsel.

My friends, I have addressed the young men and the chiefs, and I may be allowed to say a few words to the honorable commissioners in conclusion. The greatest thanks are due to you as a commission for having been so patient, never tiring of answering any questions asked, no matter how tedious, and all with such urbanity that I can not express my thanks.

Mr. Rice, our old friend, when you were a young man you acquired many friends among the Chippewas, but you see these friends here no more. They are all young faces before you, the descendants of your old friends, but they adhere to you as did their fathers. I was but a young man, if you remember, when you came into our country. I occupied no position of prominence. We were taught from our infancy to respect you and have learned to place in you the greatest confidence. Whenever there were any difficult matters to settle, whenever the Indians were in want of a friend they never lacked one if you were present, and if you were not we sought you, and the children of those friends seek you yet. So in this matter we have acted like our fathers. Whenever we had a momentous matter before us you never failed to give us the best advice or the help required, and when we saw you here we took the footsteps of our fathers. We had full confidence in you, knowing that whenever you told us anything it could be relied upon, and we have in you the utmost confidence because you have never deceived us.

You were here a few years ago on an investigation, which was the last visit you had paid to us as a tribe. There were a great many young men who heard of you at that time but did not see you, and have always coveted the chance to see your kind face. They are now all satisfied, and we hope you will return gratified with your visit.

We have so much confidence in this arrangement that we even now fancy that we hold in our hands whatever proceeds we have been told the act of Congress would yield. You, sitting in the midst as chairman, and your associate commissioners sitting on each side of you are vested with the greatest power. How can we help believing in you? All we shall have to do is to wait in patience and believe that everything you have said will come true.

See the number of old faces here. We are all growing old; old age brings death; we are all approaching it and must make
362 the best use of the time before us. I am thinking of the day—and it is sure to come—when our young men, after we are laid away in the grave marked by a mound of earth, when they will say, "This man here spoke in the presence of the truest friend we ever had," and I shall regard it as the proudest monument that shall mark my resting place.

Both yourself and your associate commissioners have been so kind to us that we wish again to express our sincere thanks. I would refer to one circumstance to show the confidence the Indian had in you. When you asked if they remembered when their forests were in danger of being clandestinely taken away, without your help, where would all that pine have been? Without your help it would all have disappeared long ago. We never forget such kindness.

I should never tire of speaking to you, my friends the commissioners, but let me impress you again with one thing that is near the Indian's heart. I mean their present condition, having nothing to aid their immediate progress. If you could possibly use your influence, we are sure that that back money which the young men have set their hearts upon so much, that has been due so many years, and also the money due for damages caused by those dams of which we spoke at the beginning of these negotiations, would be paid to us, and we sincerely trust that you will not lose sight of those matters. You can say that in open council we discussed these matters with you; that we know the use of money; that we wish to make progress, but that we need that money to help us to do so. If that money due us from the Government was paid, it would be used in a proper way. We can expend it in purchasing cattle, horses, and agricultural implements. We realize the value of money, and the Government of the United States need not fear that what is due us, if paid, will be squandered. We are well assured that with your combined influence you can bring this about.

The last words I shall speak to you will be in relation to the agency, and I am sorry the agent is absent to-day. If there was anything at all at the present time in the warehouse to eat we would remind him that we are now very short of provisions, brought about

by circumstances beyond the power of man to control. The frost last year ruined our crops so that we have now nothing to depend upon, and shall be destitute of means unless we have some assistance while harvesting what we have planted. When you arrived here you brought relief, as we had used all our means and were on the eve of starvation. You came at the right time, as the provisions with which you have nourished us were essential to our existence. So we thank you very much, for if it had not been for that times would have been hard with us.

I leave it to every man here if I do not speak the truth when I say that a majority of our people were obliged every time they wanted a meal to go out and dig snakeroot, dry it, and sell it. The time has come when we must lay before you our exact situation. The season has come when the hay should be cut, but we have not a mouthful of provisions to live upon while at work. The grain is yellow and ready for the reaper. There are a few potatoes in our fields, but what strength is there in them when you have nothing else to eat? The agent is not here to-day, or we might find some means to alleviate our wants. In the last council this matter was mentioned, and if you have no relief for us will you please represent our needs to the Commissioner of Indian Affairs?

Commissioner WHITING. White Cloud, the sorrow that has come to you has deeply affected us. While your young friend has given up its earthly heritage, it has departed to that great reservation which the Master of Life has prepared for the good. We give you our warmest sympathy, and commend you to Him "who doeth all things well."

To these young men I commend the advice of this worthy chief. No father could advise his children better; no statesman could advise his people more wisely; so I say that this grand old chief is both father and statesman. See to it, then, that his words are not lost upon you.

Chiefs and men of White Earth, after many long, weary, and anxious days our work is done; and I reverently implore the blessing of the Great Spirit upon it and you. Day after day we have patiently reasoned together upon this the most important transaction of your lives, and maybe of ours. During all this time your department has been such as to challenge our high admiration for you as men of honor, integrity, and sound judgment.

Your part of the deliberations has been conducted with such order and decorum as to give great promise of your future success in the conduct of your own affairs. The questions you have asked show how profoundly thoughtful you are in all matters that concern the future welfare of your people, and although the discussion has been sometimes warm and animated, no word of disrespect has been uttered by you. If in these councils any hasty words have been spoken, it will be a pleasure to us to remember that they did not come from your lips or by your direction.

We believe that a bright prospect is before you, but you must
expect that your pathway will be all flowers. The sharp thorns
sometimes sting you, and the rough road will sometimes make y
feet weary, but this is true of all peoples who are striving to bet
their condition. Great obstacles may come in your p
363 which require judgment and patience and courage to ov
come, but you have all these. You will succeed if you ke
your courage and your faith. If, from any circumstances which
do not now foresee, you should fail of the highest good which it
possible for you to attain, no one would feel the sting of disappoi
ment more keenly than we. But we believe that if you follow t
advice of this venerable and wise chief you will, under the pro
sions of the act of Congress the terms of which you have accepte
move onward in the path of progress and upward into the bett
way of civilization, upward into the warm sunlight of Christianit
and upward into the haven of rest at last. So believing, we con
mend you to the Great Father who cares for us all, and bid you
kindly farewell.

Mr. RICE. We must meet again as soon as we can to look over th
rolls and see that they are correct. To enable you to go home, ther
will be to-night a double issue of flour made, but we hope tha
before you leave you will come in to compare the roll, as that i
very important. The chiefs should be here for that purpose.

WOB-ON-AH-QUOD. I have given directions for the funeral, and
shall not go home, so that we can proceed with the calling of the
roll.

CHARLES WRIGHT. In reference to the schools established here, I
understand that 160 acres were allotted for each establishment.
From whence does that arise; from the chiefs? Did they do it clan-
destinely, or was it done by others here? I wish an answer, and
then I have a few other remarks to make.

Mr. RICE. One hundred and sixty acres are reserved for the
schools in the Dawes act. It does not take the land from you,
but simply reserves it for the schools.

CHARLES WRIGHT. I want to know if the Indian is capable of
filling any places of trust or employment here which may be vacant
in this agency. Would he have a right to apply for them?

Mr. RICE. The law expressly says that he shall have the prefer-
ence.

CHARLES WRIGHT. Is that in this arrangement?

Mr. RICE. It is in the Dawes act, which is a part of this arrange-
ment.

CHARLES WRIGHT. I make this statement on behalf of a great
many young men here, full-blooded Indian boys. When they go
to school, and return, they have no chance here to fill any positions,
which is the reason I speak.

Mr. RICE. This act covers that point as well as all others that
could possibly be foreseen.

If there are any names on this roll which should not be there, please let us know, and if there are any names which should be and are not, please inform us, so that the roll may be corrected.

The census rolls were then carefully read over to the Indians present at the council, which was largely attended.

Mr. RICE. The census rolls have been carefully read to you, and corrected, and we wish to know whether as so corrected they are satisfactory to you.

To this question the Indians responded, "Yes," and all expressed themselves as perfectly satisfied.

Mr. RICE. I wish to congratulate you upon the happy and successful termination of all business that has been submitted at our councils, and I pronounce this, our last council here, adjourned.

COUNCIL AT GULF LAKE

AUGUST 5, 1889.

Mr. Rice first explained the act fully, after which the Indians retired for half an hour for consultation.

WAH-DE-NAH. We will help to have the money appropriated for us, as is expected. Everything done by the White Earth people with whom we are in interest we are in accord with, and we accept the whole thing.

There are arrearages for four years that the Indian agent did not pay us while my father, Bad Boy, was alive. We would like to have that.

Mr. RICE. That is for your agent to reply to.

B. P. SHULER. In regard to that I will say that I have not yet examined the books to ascertain how the matter stands, but if it has not been covered in and divided among the White Earth Indians, the money must certainly stand to your credit. I will look into the matter and let you know the next time that I see you.

WAH-DE-NAH. There was due my father, Bad Boy, $150 per year, and he was paid that amount only once. On the third year he got $10. If he had been alive he would have received that money, on account of the provision in the treaty for paying the chiefs, but since my father is dead I have received nothing. My father's wife is still living.

364 SHAY-NUH-WISH-KUNK. I wish you would listen in pity to my words for only a few moments. You see that I am now nothing but a corpse, but I will try to speak my mind to you. Regarding the proviso for our removal, what shall we do when we get there? Are you going to anchor us there without any subsistence? What shall we get there with? There are a lot of Indians who know how to pursue the white man's work, but how shall we subsist when you have anchored us there? I have been a farm hand for ten years. I know the minutia of advancing a farm, although I have not the means of advancing a farm myself. How shall we manage to get ahead so that we can become self-supporting? We will be

very much obliged to you if you will please state to us what we may expect when we get there, and what our progress will be.

Mr. RICE. As soon as we have seen all the Indians the bill is to go to Washington, where it will be approved by the President. We expect that will be done this fall, and we are to see to those who wish to remove. The money is appropriated to pay for the removal, and if we live you will not be removed and left to starve. I have got to be pretty old, but this young man (indicating Commissioner Whiting) and myself will see that you are properly cared for. We did not take hold of this work to do a part of it only, leaving the balance to someone else. We can not, of course, tell you how soon the removal will take place, but we are in hopes to finish in time to have the President approve of the negotiations this fall.

Commissioner WHITING. My friends, I know very well how great a friend our chairman has been to you all these long years, and therefore I shall be content to assist him in what he thinks is best for you.

WAH-DE-NAH. We would like to have the first payment made here so as to enable us to go along.

Mr. RICE. I want you to understand that we can not promise anything, as we have to send the papers to Washington for approval, so you must not hold me responsible if the first payment is not made here. I do not want you to ever say that I told you an untruth.

The Indians then proceeded to give their signatures to the agreement under the act of Congress, every male adult of the band signing it, after which the council was finally adjourned, the census of the band having been previously taken and verified.

FIRST COUNCIL AT LEECH LAKE

AUGUST 8, 1889.

Mr. RICE. After the lapse of many years, it is pleasant to return and meet so many of you here. It, however, makes me sad to miss so many faces that I saw long, long ago, but those who have been called by the Master of Life to the spirit land have left their representatives behind. In dealing with you, I can not but think that your fathers or their spirits are present, and if the result of our negotiations shall be as pleasant as those had with your fathers, I shall leave here with a light heart. We may not have brought as much sunshine as we or you would desire, but we hope that we have brought something which will clear away the clouds that have hung over you so long.

The business upon which we have come is of the utmost importance. It is of more importance to you than any business you have ever transacted. It is not so much for the present as for the long future. It will require your best attention, your best thought, and the aid of your wisest men. We do not expect that you will all be of one mind; you will at first differ very materially among yourselves, but by discussion and comparison of views, some of you will

perhaps see the matter differently than at first. All we want now is your earnest consideration, and we will give you all the time that is necessary for consultation. We shall not hurry you. We wish you to bear in mind particularly that whatsoever your answer may be, if it is given in the spirit of friendship, it will be satisfactory to us. We shall leave the decision entirely to you and will be satisfied with it, hoping that it will be for the best.

We have thought perhaps you might desire another interpreter—one who is more intimate and familiar with you than the one we have brought—and if so, you may have one. So far as in our power we will gratify you in everything that is right which you demand. We will wait a moment before proceeding with the business before us, for you to determine whether or not you will select another interpreter. If you do not desire to name another we will proceed with the reading of the act, and at the next session, if you desire another one, all you will have to do is to say so.

Colonel Whiting will now read the act to you.

Commissioner WHITING. Friends, although I am a stranger to you, I beg you to accept my kindly greeting. The chairman of the commission directs me to read to you the law under which we proceed.

365 Commissioner Whiting then read the act of Congress, it being carefully interpreted, phrase by phrase, by the interpreter.

Mr. RICE. You have heard the act read, and we wish to know whether you have anything to say in reply. If not, we will fix upon an hour to which we will adjourn.

If you are ready this afternoon, we will give you an explanation of the act; the council now stands adjourned until 2 o'clock.

(Upon the announcement of the adjournment Ruth Flat Mouth, the only representative on the reservation of the family of the celebrated chief Flat Mouth, and the only woman present at the council, where she sat at the head of a line of chiefs, arose and greeted the commissioners by shaking hands with them, she being followed in order of precedence by the chiefs.)

The opening of the council in the afternoon was delayed by a council which was being held by the Indians, Kay-gway-je-way-benung appearing before the commissioners and announcing to the Indians present that those in the council outside did not wish those in the council inside to say anything until the outside council was finished.

O-ge-mah remarked to the Indians then present in the council that it was not the custom among the whites to make any reply during negotiations until everything said by the other side was understood, when an intelligent response could be made, and that he recommended that procedure.

The Indians who had been in council elsewhere came in half an hour later, when the council was called to order.

Mr. RICE. If you are ready, I will now endeavor to explain to you the provisions of the act. If you are not ready, we will postpone it until you are.

I do not expect that all the explanations to-day will be fully understood, but we will hereafter answer all questions you may ask about them.

After fully explaining the act, the chairman ended by saying: "As you probably wish to talk over many matters among yourselves, we will adjourn and hope that you will be ready to meet us again at 9 o'clock to-morrow morning. Should anything occur to prevent our meeting at that hour, we wish you would let us know so that we shall not be disappointed.

Council then adjourned.

SECOND COUNCIL AT LEECH LAKE

AUGUST 9, 1889.

The council was held out of doors, there being no room large enough.

STURGEON MAN. My friends, I wish to say a few words to you. I shall tell you what the feelings of the Pillagers are when they meet you. As soon as the Pillagers had made up their minds what to do I took some of my money and I went and called upon you. It is not my purpose to charge the Pillagers anything for my services nor for what I expended in their behalf. We wish an Indian to stand by and listen—an Indian interpreter.

Mr. RICE. Name your man.

STURGEON MAN. Those men will select one.

John Bassett (Way-me-te-gozh) and Charles Martin (Mayshkow-e-gah-bow) took seats in front as interpreters.

STURGEON MAN. You see these boys are full-blooded Indians, and we wish to have them listen to what is said.

Mr. RICE. That is right. The council is now open for business.

PAUL H. BEAULIEU. I think it is expected that the commission will speak first.

Mr. RICE. In the council yesterday we endeavored to explain to you the nature of the act. If there are any further explanations desired, we will give them with pleasure.

We wish to say that the President directed us to take down whatever you may have to communicate to him, and all we may say or you may say will be put in writing and sent direct to your Great Father. We know that there are some matters which will develop as we proceed upon which you will wish information, and so far as we can we are ready to give it.

NO-DIN-AH-QUQN. I do not wish to say anything definite in what I say. We are waiting for the time when our braves and young men will allow us to proceed to this business—to talk to you. It is our sincere wish that you should once more explain the paper that you have before you, so that every one who is here present may under-

stand. We wish it set forth so plainly that no one can misunderstand. The reason we do not give you an answer at the present time is that we want more light on the subject so we may discuss it intelligently among ourselves. That is why we want the explanations made, and made so explicitly that we will understand. After you get through the explanations we wish that you should tell us that that is all you have to say for the present.

Mr. Rice again explained the act in detail.

MAY-COD-AY-WE-CO-NOY-AY. I want to know if that is all the message that you have to give us?

366 Mr. RICE. The whole of the message was read yesterday. I have only made explanations. We are prepared to give explanations of any other points that may come up as we go along.

MAY-COD-AY-WE-CO-NOY-AY. I am a priest, and I wish to talk to my friends. It is not necessary for me to come forward and shake hands. I wish to have a little rest for to-day.

Mr. RICE (to the interpreter). That is, they wish to adjourn?

Mr. BEAULIEU. Yes, sir.

Mr. RICE. The council is now adjourned until to-morrow morning at 9 o'clock.

THIRD COUNCIL AT LEECH LAKE

AUGUST 10, 1889.

This council was held in the open air.

Mr. RICE. The President instructed us to treat with you kindly but firmly; to treat with you openly, not secretly. This is referred to to show you that the signature of no Indian will be taken in the woods, behind the houses, or in the dark. Whoever signs this paper must do it openly and before you all. None but a coward would do otherwise, so you need not be afraid; whatever is done must be done here in daylight, where all can see and all can hear. I wish now to have you rest assured upon this subject. We have not come here to disgrace our Great Father or ourselves. Every word you say will be taken down and given to him. We have not come here to beg you to sign, or to bribe you to sign. Your Great Father has made you an offer, and it is optional with you, after you understand its terms, as to whether you accept or not. It makes no difference to us as to whether you do or do not accept it. You are the ones to suffer, not we.

You sent him word three years ago, many of you, that you did not want to leave the place. He listened to you and has consented to your remaining. I know all about it as the papers are here before me. Your Great Father knows well your condition. He knows how very poor you are; that you have no mill; that there are many other things you are in need of; and that you have not even boards to make a coffin in which to bury the dead. He knows as well as we do that many of your young men can not get work. He knows that you are driven to the woods to dig snake-root to sell, in order to live.

You know it; your old men know it; your young men know it; and you know it.

Now, I do not know of anything more that we can do until we hear from you. If you do not see fit to talk, all there is left for us to do is to pack up and leave.

MAY-COD-AY-WE-CO-NOY-AY. I am coming to tell these chiefs something. I shall point out to them the persons whom we wish to appoint our spokesmen and who will speak to you the words that we put in their mouths. That is what the braves here of the Pillager band say, and our young men also.

Ah-zhow-we-ge-shig will be the first speaker of the chiefs, and Wob-on-a-quay will also speak. That is the plan adopted by all the braves present. That is the organization as now formed. There are a few of the braves that are selected from their bands who will speak after the chiefs have spoken. Mah-je-gah-bow will be the first one to speak after the chiefs, and after him two young men will speak in behalf of the young men, and after that May-dway-we-nind will speak. The Sturgeon Man will speak. The Sturgeon Man is the one who will speak the minds of the Pillager Indians.

AH-ZHOW-WE-GE-SHIG. You have heard speak the man who was selected to make the speech to you. And as I have been selected as the first speaker, the task is a very difficult one and a complicated one for me to begin. If you feel an anxiety relative to this, it is the same anxiety I feel. Now, if you may be pleased to allow us, we will go and sit around and discuss the matter as to what shall be said. I think that it is just the way you ought to do.

Mr. RICE. The counsel now stands adjourned until 3 o'clock.

AFTERNOON SESSION

The council was called to order by the chairman, who stated that the commission was ready to hear the speakers who had been appointed.

AH-ZHOW-WE-GE-SHIG. I am selected by the chiefs, those that you see before you here, by the braves, and also by the young men of the tribe. The chiefs from Pine Point, on the White Earth Reservation; the chiefs of Cass Lake and Lake Winnebagoshish Reservations, and their braves, have also selected me for the first speaker. They are here as participants, because they are interested in the entry, as it were, of these affairs. In the course of these negotiations you shall hear that they have a perfect right to participate. As I have been selected I shall endeavor to do my duty.

My friend (addressing Mr. Rice), I represent all these people, when I say that I am very much pleased to have heard your
367 talk relative to my ancestors, and the faces you have missed here; all that has been a source of great pleasure to me, that you should be the only one left of the old-time friends.

My friend, the reason we are all happy to have the pleasure of addressing you is that you are aware that these chiefs and these braves were in the past; you have heard of their prowess in war

and how they have conducted themselves in dealing with their enemies. For those reasons they feel like men. Everything that they used to take glory in—in warring with their enemies. Everything of that kind, however, is now buried underground, and our record is clean of any crime.

We know that you have been selected by the President of the United States and also by the lawmakers of your country to come here and conduct these negotiations. So you see, my friend, that you have been selected on the part of the Government, and I have been selected to appear before you on the part of the Indians. This must all be done with great respect towards each other on account of those we represent.

I now wish to say a few words regarding those you were kind enough to refer to in your opening speech and in relation to the road they followed and the land they tracked. We are now in the position in which we can meet each other. That is why the chiefs and braves and young men feel so joyous to-day in having the pleasure of meeting you. My friend, the great pleasure it is to see you meet us right on our own reservation, to see you present among us, makes us feel as though you were right in the palm of our hand. I state all these matters to give you an inkling of the feeling in our minds. I shall now follow a topic that pertains not only to the chiefs, but to the tribe in general.

My friend, do not entertain the idea that you have one before you who does not understand when anything is said to him. My friend, we do not wish you to follow a track that you can not go over, but neither do we wish to get over you.

My task is ended—that is what the chiefs, the braves, and the young men told me to say. You should consider me as a pioneer who is making a road or laying one out for the others to follow.

NO-TIN-NAH-QUAH-UM. I have also been selected to lay before you the wishes of these people, the whole of those here.

We have been very much pleased to see you here in our midst. Had it pleased the Master of Life to take you away from the land of the living we should have felt very sorry, and as one man, on account of the business that transpired in the past. I refer to the cessions made by the Pillager Band of the Chippewas. You will very well remember the cession. This is the first thing in the minds of these people, and we wish to have an understanding in the matter. We think of it as having never been fairly understood, and we should very much like to have you inform us as to its status at the present time. We do not at all oppose the act you now lay before us for our consideration. Our Great Father is the person who employs you. The Pillagers always receive word from you, in which you say: "My friends, be very careful about your behavior; always do what the Government wishes you to do, which is to be peaceful; never incur enmity. I beg of you as friends to listen to me and do no covert act. Some day my hands will be let loose so that I can help you." That is the word you sent us, and that is the very reason that the Pillager

Bands are so pleased to see you, and why they respect you—for the kindness you have shown and for the words I have repeated.

The men you see here are in poverty, in extreme poverty. That poverty began at the time of the first cession you obtained from them. You are cognizant of all the cessions we have made, and we wish that while you are here you should try to redress any wrong committed relative to the obtaining of those concessions. The Long Prairie is the piece of land that I refer to, the river country. That is the piece of land that you borrowed from my forefathers, and the amount of money that we were to receive relative to that. We wish you to take that into consideration and see if you can not redress it.

Another thing that we wish you to strictly bear in mind is, that the Government of the United States has caused dams to be built, which have overflowed everything here that we had as a dependence for subsistence. They have destroyed all that without ever offering compensation for it. These people are all in accord in this matter. They wish to have an understanding about the Long Prairie matter, and also about the reservoir dams established, and they wish to hear from you what can be done relative to that. If you can give them an encouraging answer in any of these back matters, we shall not be unfavorable to this arrangement about to be made and which lies before you.

The amount of money that would accrue if justice was done to us, and the money paid to all these families before you here would be a great source of revenue to them. It would help alleviate their poverty and be a source of help to these yonng men, to these old men, and the women and the orphans. That is the nature of our negotiations to-day. The only stumbling block there is to the arrangement you now bring and lay before us is the adjustment of those old dues which now belong to us. It was said to us, "The money shall be placed in your hands and it will help to relieve your wants."
368 That was only a matter of speech; the thing was never carried into effect. It never came to pass.

An arrangement was made a few years ago whereby the Indians were to be well supplied with agricultural implements. I was very much elated when I heard of it; but when I saw the fulfillment of the promise, what did I see but a log-chain laid before me, which was to go around for one whole band. And then there was a yoke there also. When I looked at the yoke I thought to myself that I would not have sent a yoke without something to put under it. Come to find out, it was sent only for me to look at, and I never found out who the yoke was used on. If they had only said to me that they brought the yoke for the purpose of putting it on me and yoking me with it I should have kept it as a memento to show you this very day.

I have referred to all these back matters because when this act is now read to me, having been treated as I have—and it is no exaggeration as I have stated it—I am afraid of getting my foot into the

trap again; so that I can not be too careful how I make promises hereafter.

WOB-ON-A-QUAY. My friend, now that I am about to talk to you, remember that my ancestors were your friends and what my ancestors thought of you. That is just the way that I think of you; I think of you as my greatest friend. My friend, the question that I wish to ask of you is, Here is an arrangement that you have left unsettled; why should you wish to tread over the arrangement and place a new one before it? My friend, there is a big lot of country, a big tract that you borrowed from me; I wish you to make that loan good. My friend, I do not understand the act. Do you not know that everything which grows under our feet springs anew every year? It does. There is something that is buried away underneath that ought to be taken up before beginning again.

I am old and tired, but I will depend upon my stomach feeling a little better after the big hunter (Commissioner Whiting) has shot something.

Mr. RICE. Yesterday I walked up to the old post to see the graves of my old friends, Flat Mouth and George Bonga, and others, and to see again the ground upon which the first treaty was made. Sometimes in our dreams events that occurred years ago pass vividly before us. While standing there I fancied that I was again a young man, and all that happened there 40 years ago this month flitted distinctly through my mind. There are some of you now before me who were present then; then you were the young men. You will well remember the words I at that time used. I said that you were not selling the land; that the price paid was inadequate. So, you see, the words of your second speaker were true.

The Great Father wanted that land for the Menomonies. The Menomonies in early days used to come up a few at a time and hunt and trap in your country. They were friends of yours. I was at that time merely the messenger of your Great Father. You will see to-day that it was written in the treaty that the land was to be held for Indian purposes. It was given to the Menomonies. Your Great Father was sincere in it. It was expected that the Menomonies would remove there, but they were told by their friends in Wisconsin that owing to the war between you and the Sioux it would be dangerous for them to do so; that they would be between two fires. After considering the matter for several years they finally concluded they would not come, but would take a smaller piece of land and remain in Wisconsin.

There came, soon after, a change of administration, and the matter was forgotten, was laid aside. You did not say anything about it. No one seemed to take any interest in it, and several years ago, at the request of Chief Flat Mouth, I wrote the facts and sent them here, that you might always have something to show what the transaction really was. You called the subject up three years ago, before the commissioners acting at that time, and I was in hopes that the

matter would be thoroughly sifted, but although I see that you allude to it in their report, they did not seem to understand the subject. But the paper I gave you was printed. It is now on file with the public documents in Washington. While I felt very sorry that the transaction terminated as it did, and was disappointed about it, I never felt ashamed, because I never told you an untruth. I have, however, lived in hopes that the matter would be settled to your entire satisfaction, and I believe that the day is not now far distant when it will be. But it stands in the same position as the old balances due to the Chippewas of the Mississippi, and it required a great deal of explanation there to make them understand the true state of affairs. At the negotiations three years ago they paid the amount to be paid for the damages caused by the reservoirs.

In looking back to the distant past it was seen that the Chippewas of the country were once one people, that you fought the Sioux from day to day, that you were a brave people, a people to be feared, and that this vast country, from Lake Superior to the Red River of the North, was taken by you from your enemies, and when I first came among you much of this region was covered with the bones of the dead. In those days whenever one band was in danger or in
369 trouble the others were called upon, and you all helped each other. It was by your common efforts that you conquered and retained this country, and the Great Council has thought that you should all participate in the benefits when it should be sold. Those are the subjects that occupied the attention of the law-makers. The other matters were not even considered. They thought them of too small importance, and it was not the proper business of those who originated this measure to first examine into those details. So these matters were never brought to the attention of your Great Father, but he told us in the instructions to listen attentively to every complaint you might make, and to everything you might say, and put all down in writing and send it to him.

I am very glad to have heard what you have said in regard to those matters. I have never felt at ease—I have never thought of it that it did not make me unhappy that the old matter, in which I was the instrument of the Government, had not been closed to your satisfaction. When they commenced building the reservoirs I had that in my mind, and I wrote constantly to your people to keep quiet and to bear with the ills upon you in hopes that something would occur by which we could go back and settle up the old matters together with the new. Many of my letters are now among you; none of them are private, and they all speak in the same tone. But, my friends, the truth is this: You have been so poor that your entire attention has been given to procuring food enough to supply your daily wants, so you have not had time to give to these great questions; consequently, you have neglected them.

We would not be unwilling to make this a part of the treaty if we could; but should we do so it must go back through that long, long road—through both branches of Congress, through the In-

terior Department, and then back to the President, after which appropriations would have to be made, which might consume a year or two.

We have no advice to give in regard to this. We have stated to you the plain truth, the facts as they exist, and it is for your better judgment to decide what to do.

In regard to the reservoirs, you know very well that I at once wrote to Washington and did everything in my power to see that nothing should be done until a satisfactory arrangement with you had been made. But in the making of public improvements no one can stop the Great Father. Only a few years ago your Great Father wished to cut a canal through the point of land at the west end of Lake Superior, at the outlet of the St. Louis River. The whole State of Wisconsin objected because it would throw the course of that river over to this side. They took it to the highest court in the world, the Supreme Court of the United States, and that court sustained the President. It was so with the Northern Pacific Railroad. He and the Great Council determined to build a railroad to the Pacific. They ran it through the lands of the whites and through the lands of the Indians, and there was nothing which could stop it. Now, that was the case with the reservoirs. It was considered a national work, and it was determined that they should be built. All this, however, has not lessened your claim to damages, and you are just as much entitled to the amount as you would have been had you made an arrangement before the work was done. This is so plain a case I can not but think there has been some mistake or some misunderstanding or you would have been paid long ago.

I believe that it is now your wish that we should adjourn until Monday. You may, meantime, think of something that you wish to ask—your chiefs, braves, or young men—and we will patiently listen to anything that you may have to say. We wish to go away leaving you all satisfied and in a better frame of mind than we found you. When you act together your action is more effective. When we get a paper from you and know it comes from all we feel encouraged to work. All you now have to do is to respect the opinions of each other. Consult together freely, like men, and while you may differ at first you will probably agree in the end. I now pronounce the council adjourned until Monday morning at 9 o'clock.

FOURTH COUNCIL AT LEECH LAKE

AUGUST 12, 1889.

This council was also held in the open air.

Mr. RICE. The persons you have selected to speak this morning will now be heard.

KAY-ME-WUN-OUSH. You have, I suppose, been informed that it is hard work for me to speak this morning. I have a few questions to ask. There were some questions asked of you yesterday. There is something different that I wish to ask you this morning.

About the cessions of which we spoke, I do not wish to refer to that. I wish to begin the subject of the reservoir dams established which have caused us so much damage. My words will be few, as there are others sitting here who will speak on the subject. We wish the commission to understand distinctly that that is the matter we wish to impress upon them, as it is doing us an enormous amount of damage. It can not be put plainer than this, which is as we
370 understand it: There is something grows there by nature which is put in my hand. The white man takes that morsel put there for me, from my mouth. The reservoir built there has taken away my subsistence. It has created not only hard feeling, but hardships also. You [Mr. Rice] have written us to be very careful not to injure anyone, or any of our property—to respect that dam property. We have done so, but we have, nevertheless, suffered from that cause. The respect which the Pillager bands owe you is the cause of our not saying anything about the dams; that is why we were not troublesome.

There is another thing that we wish to ask you. In the treaty ratified in 1855 (article 3) the old men made a stipulation in which there was a sum of money named. [Meaning the utility fund of $4,000.]

And the Mississippi money that was put on one pile; that was used by the Chippewas of the Mississippi. We never used a cent of it.

There is another thing we wish to mention for the consideration of the honorable commissioners; it is this: That the Government of the United States, under solemn treaty, promised to pay the chiefs for their services, a surplus that came out of the annuity fund.

[This refers to the treaty proclaimed March 20, 1865, article 4.]

I do not utter these words frivolously, but wish that the greatest consideration should be paid to them. It is a matter of great interest to us; and we present it because we respect you and know that you are an honest worker for us; because you pity us, and because of the position you occupy as a representative of the Government. This is all I have to say. I will leave the matter to be discussed further by the braves and young men.

MAY-COD-AH-WE-CO-NOY-AY. I wish to say, in behalf of the land, what I was told. A man will speak who will represent the wishes of the whole tribe. We are of one mind this morning, and whatever he says will be for us all.

SONG-GE-GE-SHIG. I have an apology to make, as I am unprepared with my remarks except in a general way, not thinking that they would call upon me. My subject will be a different one. It is the subject that you are discussing in all the Indian villages. You are aware there is such a thing as fables. Even fables, which are mythological in character, are never disputed if there is any sense in them. Even fables are listened to attentively, let alone such a matter of great importance as this.

We have great faith in the person that sends you here, and do not dispute a single word of what you offer in his name. We wish we knew positively that it comes from our Great Father's heart, what you have promulgated for the benefit of all these Indians here. My friend, we are very sorry that you should have forgotten such a momentous thing as these back arrangements, as, if they had been all settled, there would have been no necessity of discussing this at all, but we could have disposed of this new arrangement that you wish us to enter into.

This work that you are taking along from place to place with you, you can not change or modify. If it was possible I should follow (accept) it. I want to impress you with the idea that these people are all of one mind. If they make up their minds to accept the proposition they will do so as a unit, and if they conclude not to accept it, it will as a unit be rejected. I am speaking to you so that if you do not see me over there you will know I have done what I was hired to do. I am one of the Cass Lake chiefs, but I am living here.

MAH-GE-GAH-BOW. I have been selected by the chiefs, and the braves have also selected me, and the young men also selected me, our women and children selected me. My friend, it is to lay before you what engrosses our whole mind that I address you.

We heard our fathers state under what conditions they had ceded the land to you that we referred to the other day, and it is our wish that our friend should state to us what he stated to his old friends, our fathers. It was you to whom they gave the land. At the time that Flat Mouth went to Washington they laid the matter in your hands to help them make the cessions. We, the descendants of our fathers who made all those negotiations, have always said that the first time we see the friend of our fathers we shall lay before him these matters, so that he can explain to us all about it, and as to which we are so anxious. So you see, my friend, that you are the person who made this arrangement by which we consented to part with that land, and you know all about it. It was at that time, in 1855, that you drafted that treaty, and the mixed-blood now standing by you was the one who then interpreted.

There was nothing to mar our happiness here. There was no reservoir dams, and everything which is now an obstacle to our subsistence was then clear before us. That is what is putting us in extreme poverty. They think it ought to be redressed. They discuss it day after day and they are right in discussing it. Our idea, my friends, is to fix and conclude all the past relations between us. We do not wish to cover up out of sight that old matter, but to keep it in view; and after it has been fixed, then we are ready to make a new arrangement with our Great Father.

371 MAY-DWAY-WE-NIND. My friends, I shall now tell you the ideas of the Pillagers who have with one accord selected me to speak to you, and whatever I shall tell you you shall accept as the thoughts of all the Pillagers here. When you were selected

your appointment was made strong by the person you represent, the Great Father. You are taking this message all over the country and you are bringing it to us here. The purpose is that you should carry out the intentions of the Government; that is what you are sent for. We know that in traveling you want to leave nothing behind unfinished, and we know that that is the way your instructions read. And it is a very happy thought that it should be so. The Pillagers here with one accord wish that the object of your mission should be fulfilled, and that the promises of the Government should be faithfully carried out. I have told you what the promises of the Government are, and I shall now tell you what our wishes are.

This matter laid before you has always been agitated in the Pillager mind during the past six years, and this is what they wish to get through before doing anything else. Six years ago we arrived at a conclusion and resolved we would adhere to it. What you have in your minds and what we have do not conflict at all; they only cross each other instead of meeting. The Pillagers have resolved that as long as these back matters remain unsettled they will stop where they are. That is where it shall stop. We have all put our names on the papers. The Indians at Cass Lake, Lake Winnebagoshish, the Indians at Pine Point, and we have signed an agreement that we shall be a unit in the arrangement we shall arrive at. We wish that what we have asked you shall be laid before our Great Father and adjudicated before anything else takes place. We wish our business to be attended to first because it is momentous. At the present time we have extreme good feelings toward each other, so that your arrangements will be passed by and ours will go on to Washington.

The first thing in the minds of the Pillagers is the land that you borrowed from us; this is what we are always talking about; and then the stipulations of the treaty that has been made with us; the first cession made to you, that remains in some degree unfulfilled. And the damages by the reservoirs, that is another thing.

Another thing is, that we wish you to understand that whoever touches the pen here will touch the pen under water. That is the conclusion we have arrived at. We do not wish to hurt each other, but we wish to have our ideas enforced, so that anyone who shall touch the pen clandestinely we will try by our laws and punish.

STURGEON MAN (after addressing the Indians). It is three years since I took a document and placed it in the hands of our friend here, and he told me that those high in position should consider it. Mr. Sabin is the man referred to. He was pointed out to us, and we were told to lay the matter before him and that he would attend to it for us. That man told us how to proceed. Then we were told, "You should manage this matter in a proper way; if you employ anyone, you have a right to pay him." We did then employ a person who knew very well how to write. We employed J. B. Bottineau for that purpose. After Bottineau had written the article

for us he came and submitted it to us. That article contained all our grievances which we wished to submit the Government. We told Bottineau that if he achieved what we so much wished, when we received the money we would pay him $5,000 out of the fund. So you see that Bottineau was acting for us in all our business. We were also very anxious that you should be with us until all the matters were adjusted. It is very true that we have always looked to you in trouble, and you have never failed to give us succor. But you see it is impossible for us to ignore Bottineau. We have made bargain with him, so that he can not be thrown aside. It is impossible to throw off a person after you have hired him as an attorney. It is just like you hiring this secretary; we have no business to say that you must not hire him, and that is the way we feel about the man we have hired.

At the time, my friend, that you borrowed that land from the Pillagers, who were our fathers? It may be that I was not born then, but I have heard all about it. It was this year forty-two years ago since you entered into that agreement with our fathers. That is the first thing.

It is going on thirty-five years that the other cession was made, in which the old men here ceded the other land to the Government. The arrangement made for thirty years is now passed by, and that was the number of years for which the Pillagers were to receive payment for the land they ceded.

Twenty-two years ago there was an arrangement made by which the Pillagers should receive pay, extending their annuities ten years longer than the time stipulated in the treaty. Those two men who were there at Washington at the time stated that the land on the other side here [indicating] was given back to the Pillager bands.

At the time of the raid which the Mississippi Indians got up against the Government there was a sum of money, $16,000, which was taken from us and paid on account of the depredations committed in that raid, when we had nothing to do with it. It was none of our getting up; only a few of our men as individuals
372 joined in; yet we had to pay that claim. It was none of our business at all to pay it. There are these men before you now who protested against joining the Mississippi Indians when they were ready to commit overt acts against the Government. At the time the White Earth Reservation was set aside and the Mississippi Indians removed there, there was a sum of $25,000 appropriated to pay for it, giving the Otter Tail Pillagers a right on the White Earth Reservation. We think that that land which was paid for at that time belongs to the Otter Tail Indians. We wish to have the Otter Tail Indians here with us to participate in interest with whatever might accrue to the Pillager Indians. We wish them to stand with us in all business matters. The Otter Tail Indians ought to have land separate for themselves.

At the time of the cession, in 1855, the chiefs who made this cession did not do it for the purpose of excluding the Otter Tails.

If they had only mentioned the matter to you, my friend [meaning Mr. Rice], you would have told them what to do.

We think that as our friend the agent is now here, it will be a happy moment to refer to the agency matters which have troubled us in the past.

My friend [addressing Mr. Rice], you did not think at the time that you gave us this paper I now hand you that you should ever be a commissioner to come among us. It was written nine years ago for the purpose of aiding the redress of our grievances. Please read this paper, which I suppose you gave us that in case anything should happen to you the Pillagers could exhibit this to show how the matter really stood. We wish to keep that as a memento.

The paper handed Mr. Rice read as follows:

ST. PAUL, *October 4, 1880.*

The following statement is made at the request of Flat Mouth, chief of the Pillager Indians.

In 1847, when the Pillager Indians, by treaty, sold to the United States the Leaf River country for a nominal consideration, it was understood that the country ceded had been selected for the future residence of the Menomonie Indians, who were friendly to the Chippewas, and the country would remain Indian Territory. Not only this, but the Menomonies would form a barrier between the Pillager and Sioux Indians, who had for centuries been at war. The old men thought by having the region thus occupied peace would follow; hence their consent to yield to the request of the Government.

They were sadly disappointed, for after the ratification of the treaty other provisions were made for the Menomonies. The Leaf River country was thrown open to settlement, the game driven out, and the Pillagers exposed to all the evils that beset a frontier border. The country ceded contains about 1,000,000 acres; the price paid about 1½ cents per acre. The sale was positive. The Pillagers have no legal claims to the land, but morally have a claim upon the Government, which claim I hope may at some suitable time be acknowledged by giving to this poor band such aid as will improve its condition.

HENRY M. RICE,
One of the Commissioners.

Mr. RICE. In regard to the land that you loaned your Great Father forty-two years ago, all that you have said is true. It was understood between Flat Mouth and myself that that land was not to be used by the whites, but that it was for the use of the Menomonies. In 1855, when Flat Mouth went to Washington and made the last treaty, the question had not been decided—that the Great Father would sell the land to the whites—consequently nothing to prevent it was done. Time passed on and the matter seemed forgotten. As I was the only one living who knew anything about it, and for fear that I might be taken away, that paper which has just been handed to me was given to Flat Mouth. And I believe I am the only white

man living whose hand touched the pen to the paper authorizing the cession. The commissioner who was with me died long ago, and I do not know that there is a witness connected with that paper who is now living. So I am left alone to receive all the blame that attaches to it, but I know that I am in the hands of my friends.

It was not long after Flat Mouth was in Washington that there came a change in the administration, and then, or soon after, came the great war, when everything else was laid aside, and it has taken nearly all the time since to settle questions that were raised by the war; paying the great debt incurred, taking care of the four million blacks who were thrown upon our hands; of the widows and orphans of the soldiers killed in battle, and of the soldiers who were wounded during the war.

You can also imagine the business your Great Father had on hand when a million men were under arms and every ship we had was armed and at sea. It is as if the storm was but just over and the ship had just arrived safely at anchor. These matters, with the other pressing business of the Government, have taken up all its time, and it is no surprise that many matters of small importance to your Great Father, but of great importance to you should have been laid aside or overlooked.

373 In regard to the reservoirs, your Great Father has not said that he did not owe you damages. He has sent two commissioners here to consult with you and ascertain the amount that shall be paid. The commission of three years ago also took the matter into consideration.

It was said by one of your speakers that you wished us to do nothing here but to pass on to the next band, and it may be better to make no arrangements here but to go home, because it would not look well if we left behind us a stream unbridged. In regard to many other matters, some of which Sturgeon Man has referred to, as to the nonfulfillment of the treaties, we can not give you an answer without first examining into the question. But these are matters which are properly brought before your agent, who has the books showing the money paid and the cattle furnished. I know you brought these matters before your former agents, and that, as it were, your words were blown away by the wind. The reason was that they did not understand business matters, but you now have an agent who does and who will see justice done.

We have learned since coming here that in the treaty ratified in 1865 was a provision that 200 acres of new land should be plowed and fenced for you, but instead of fulfilling that promise your then agent plowed your old land and took your money to pay for it but did not plow an acre of new land.

In regard to the reservoirs, it has not been considered good policy to pay you the damages until it was known where you were to have homes. The sum agreed upon three years ago—$100,000—was so large that the Government did not think it wise to distribute it in one payment, as it would soon be gone. It could not be expended

here in breaking land or building houses, because if the other treaty was ratified the improvements would be lost. You can see very readily that the Great Father could do nothing while the other treaty was pending.

As you know, there are many who wish to have the treaty of three years ago ratified, and in that case the only home you would have would be White Earth. The Great Council has not acted upon that treaty, as it went to a committee, and there it lies. After your protests against it were received in Washington the Great Council devised the offer we bring you, hoping you would like it better. As I explained to you the other day how the two differ, I presume you understand it. If you had kept quiet here and expressed yourselves as satisfied with the former treaty, it might have been ratified. While the Indians of other reservations also opposed it none did so strongly as your band, and you were the first to make your wishes known at Washington. So far as they knew your wishes, your friends have endeavored to carry them out by providing in this new agreement that you may remain here in peace or go to White Earth, as you prefer.

We shall do nothing to break the chain that binds you together in your views of this proposition, for there is nothing looks so badly as people, either whites or Indians, who are all tails and no heads. We have opened our hearts to you, leaving the result with you, and your decision will be final. We have our opinion as to what is best, but no two or three men can decide for a band. The interests at stake are your interests, not ours, and we hope that whatever you do will be for the best. We have made no promises and given you no advice, save to keep together.

STURGEON MAN. You will now hear from me, not only my voice but that of the whole people. My friends, it is now three years since we began talking of this matter, and we have done so even up to this day, and there are many days in three years. We think the Great Father is owing us too much, and you know very well there is something owing us from the Government. We do not wish to leave this Leech Lake Reservation, and we tell you this in good faith.

We do not wish our Great Father to run us into debt on account of anything relating to our reservation. We know that any one who came to us with the money in his hand, saying, "Here is the value of the land," would simply be coveting the pines on the reservation. If he wanted a certain quantity of pine and had the money, he could buy it of us. If we should negotiate with you in accordance with your expectations and accept the terms of the act, we should have to wait a long time—perhaps 50 years—when maybe all the past dues would be covered up and could not be unearthed again. [Addressing the Indians.] The braves and the young men all like the chiefs and do not wish that any of the chiefs should do otherwise than they do. These are my ideas, and I know they are yours. If we should be at this a thousand days, I should not say different than

I do now. [Turning to the Indian agent.] The people will talk to you about the agency matters, maybe this afternoon. I don't know what time. I am very much pleased with what Mr. Rice says relative to the knowledge you possess.

Mr. RICE. It is dinner time, and we have nothing more to say. It is for you to say whether you wish to see us again. If so, you must name the hour.

MAH-GE-GAH-BOW. If we think of anything else, we will let you know this afternoon.

Mr. RICE. I suppose that if you do not think of anything else we will prepare to go home.

374 Indians grunt assent.

MAH-GE-GAH-BOW. At what time will you meet us?

Mr. RICE. It is for you to say.

MAH-GE-GAH-BOW. Three o'clock.

Mr. RICE. The council stands adjourned until 3 o'clock.

AFTERNOON SESSION

NOW-WE-GE-SHIG (addressing Mr. Rice). My friend, we have met again. I have heard that since coming here you have been presented with a magnificent beaded sack, and a beaded sack never goes without a pipe. [Handing Mr. Rice a handsome inlaid stone pipe.]

Mr. RICE. Thank you.

MAY-DWAY-WE-NIND. I wish to state to you what the honorable Commissioner of Indian Affairs stated when I paid a visit to Washington winter before last. I do this on account of the White Earth people, who even at this day are talking of this matter. I asked the commissioner about the matter and he told me that the Pillagers here and the Indians of Cass Lake and Lake Winnebagoshish owned that in common [pointing to the west]. The honorable commissioner had a book in his hand, and, while talking, he stretched out papers referring to this land which was owned in common. He told me that it was seventeen years ago that that paper was made operative. When I asked the commissioner who made that paper effective he replied that it was the President of the United States who had done so, and that there was no power on earth who could annul that paper. That is all I have to say.

STURGEON MAN. My friend, I have a few words more relative to what all the Indians wish you to do for them. Whatever you say to us or we say to you that man puts down on paper, and it is our wish that you may be pleased to have a copy of that left here with us, a copy of the journal.

My friend, for fifteen years past you have always told us to be quiet, to live in peace and harmony, and we have listened to your words. You told us that all which troubles and aggravates and is a source of trouble to us will some of these days be redressed. You told us, my friend, that your hands were tied, but that they would some time be let loose, when you could do something for your friends,

the Pillagers. Now that we see that your hands are not tied, we expect you to make use of the executive power of the Government. We always have thought that if anyone came and tried to scold us we would look to you. This has been the drift of our conversation for two days past; we have shown the respect for and the confidence we have in you. We have thought that the only proper way was to have this matter that troubles us go back to the great lawmakers in Congress. We thought so because of your counsel that we should remain quiet and live in peace and harmony, and we thought we would have a redress there. We are now very much pleased that you are in power so we can talk with you. We know very well, our friend, that everybody in the country knows you by reputation and talks always very highly of you; and it is so to-day, and you are thought of a good deal above other men.

My friend, this is not your personal affair, your asking for your land; it is something started in Congress, by which you were appointed.

[Addressing the agent.] I have a few words to say to you and hope you will will listen. Of course, it is not your fault if you can not redress our wrongs when we wish to go to Washington about the treaty of thirty-five years ago. The lawmakers would perhaps be against it if they had set the sum aside for that purpose. There is a man over there [pointing to the agency office] who has charge at the present time of the annuities.

Commissioner WHITING. That is a matter for the agent to attend to.

Agent SHULER. I will have a meeting with you after the council is over on this subject.

STURGEON MAN. The way we are treated here everything goes wrong.

Mr. RICE. That may all be, but the place to talk to the agent is in his office, not here. We are here on business.

Agent SHULER. I will see you before I go away.

STURGEON MAN. That is what ought to have been said before. We understood that this should be said to the agent in the presence of the commissioners. That is all we have to say.

Mr. RICE. Something has been said here about your employing an attorney, and I wish to say that you have a right to employ one to write letters for you; but whoever employs him must pay him, unless he will work for nothing. If one of you commits a crime and gets in prison, you have a right to employ an attorney to appear in court. If you should employ one and send him to Washington, to Congress, he would not be permitted inside the doors. If you should employ an attorney to speak to us here, we would not listen to him. If you should employ an attorney to speak to the agent, he would not listen to him. The employment of an attorney by two or three or half a dozen does not bind the tribe, as they can not take your money to pay him without your full consent and the indorsement of the agent. I have acted as attorney for Indians

when they were in St. Paul, but I never charged them for it. I mention this that you may not misunderstand the matter.

I heard something said this morning about selling your pine to white men who might come to you for the purpose. I wish to say to you that you can not sell even a dead tree that has blown down. If a white man should be fool enough to pay you money for a tree, the first time he put an ax into it he would be seized, taken to St. Paul, and punished. A few years ago a foolish white man purchased some pine on the Lake of the Woods, and the moment he went there he was arrested, taken down to St. Paul, and imprisoned, and begged assistance of me.

Another thing regarding your pines. The white man has no right to set fire to his own house, and if he does he is punished. Your Great Father will not see his children among the white people destroy their property by fire. He does not permit it, and he will not permit the burning of your pines. It is the property which the Great Spirit put here for the purposes of man, and it is not going to be left to destruction.

I heard here this morning something that sounded like a threat. I have to tell you that times have changed. Only a few years ago an Indian was permitted to kill an Indian, and if one did so it was settled among yourselves. But now, if an Indian kills an Indian he is just as sure to be hung as if he killed a white man.

The day before we reached Red Lake one Indian there killed another. He claimed it was an accident, and perhaps it was, but the agent seized him and he now languishes in prison in St. Paul. Congress has passed laws upon this subject, as well as upon others, of which you have not heard.

As we have said to you, we hope you will be united, and we still hope so, but we want to say to you that any man who wishes to sign this paper will have permission to do so. We shall present it, and if any one signs, it will be in broad daylight, and he will not be deterred from it.

If you have any good reason for not signing the paper, any reason that should receive consideration, we will listen and take your words to your Great Father, but we will not carry any trivial message. We are not men of that kind and were not sent for that purpose. I was in hopes it would not be necessary to say these things to you, but we have to be plain with you, whether or not it is acceptable, for we know that in the end it will be for your good.

You have much to say about the lending of land to your Great Father, but I have not heard a word about his lending you $90,000 a year, year after year, to enable you to avoid digging snake-root in order to live.

Now, if any of you have good reasons for not signing, we will hear them, and if any wish to sign, they may do so, but no threats can be used or put in force here.

MAY-COD-AY-WE-CO-NOT-AY. My friends, I wish to tell you how to look upon your message here. My friends, it pleased the Pillagers when they heard that you had been selected to sit here and have the Pillagers standing before you. This was because of your past transactions with the Pillagers that they were so elated when they heard of your appointment. You can see, my friends, what pains we took to receive you on your arrival, and the reception we gave you, which was done in the fullness of our hearts.

The idea of the Pillagers to-day is that they do not want to step over the old arrangements before they enter upon another. We thought you would lay before us everything pertaining to those matters. If you had done as you ought to have done relative to the Pillagers, they would not have been compelled to beg for a living to-day. I have told you why the Pillagers were so glad to see you, and they are still glad to see you. The people here were not so much pleased with the act that you read and explained to them. It was not that; it was the back arrangement that they were so much pleased about.

My friends, do not feel badly because we do not accept the propositions that you have extended to us. My friends, your friends here salute you from the bottom of their hearts, as you can see by the demonstration made when you arrived.

STURGEON MAN. I have a few words to say to you. The words you have spoken to the Pillagers here have been well listened to by your friends and those who call you friends. We do not say "friends" for the sound only, but we mean what we say.

If my own brother should come to me and wish me to enter into an arrangement, and I should not comply with his request, I should not feel insulted. Even if he should cut my body into pieces I should not resent it at all. I am interpreting the ideas of the people here, and I would not, under any circumstances, be guilty of disrespect toward you, whatever words may come from you. I am told, if any one talks hard to you, do not talk back in the same spirit; that is what they told me. The Pillagers told me, "Just think of God whenever your temper rises, and it will not rise." "If you should meet with reverses in making your arguments, do
376 not let that irritate you at all; if you should be knocked down in trying to maintain your rights, do not resent it." If they keep putting these words into my mouth, I have to utter them, whatever the consequences may be. If I am chosen by them to speak, I must do so.

Kay-gway-je-way-be-nung then addressed the Indians, telling them to watch any one who was guilty of touching the pen, and to stop him, and that he still occupied that attitude.

Mr. RICE. You seem to be laboring under a false impression, which I wish to correct. We do not expect any here will say anything to offend us; we certainly will not say anything to offend you. We have heard what you have said about the old matters and have put it all down.

What we expect is, that if there is anything in this paper we have brought to you which you do not like you will say so. This paper says that you may remain here. If you do not want to remain here, we wish you to say so. If you do not wish your Great Father to lend you money, say so. If you do not wish the other Indians to put in what they have against yours, say so. As we have talked so long about the other matters, we desire to speak of this a little, and if there is any alteration you wish in this arrangement we want you to mention it, so we can send your statements back to the Great Father. Three years ago he spent a great deal of money in sending a commission here, and it seems that you did not like the propositions then made. He now sends another with other propositions, and instead of pointing out in it what you do not like, you simply say that you will not sign it, which is no reason.

You speak of sending a delegation to Washington. There is a law to prevent it. Only last winter one of the biggest chiefs of the Sioux went to Washington. They would not listen to him and he had to beg money to get home with. Now, as your friends, we would advise you to speak of the propositions sent you. If there is anything wrong, mention it, that we may send your objections to the Great Father.

We know very well that he thought that he was sending something which would be welcome. We certainly would not have brought it had we thought it would not be acceptable to you. I hope you have considered the subject well, and for your sakes you will send some message if you have any. I do not say that he will send another commissioner. I do not say what he will do, or will not do, but I advise you to send something that he may read and see that it came from men of sense.

NO-DIN-AH-QUAH-UM. I wish to talk to the Indians, and wish notes to be taken of what I say. Pillagers and men of this place, it is to get you to act as a unit and in your interest that I speak in your behalf. Do not lay upon me the imputation that the white man has turned me to his side on account of the words I may utter. I shall talk of the cause that has been rankling in our bosoms for a long while and has caused many troublesome thoughts.

You all know that we all hate the prairie country, because it is cold. It has been my idea that you should have considered this matter thoroughly and, instead of going to the prairie, to arrange in some way so that we can be permanently located here. The main idea that actuates every man here is to remain at the place of his nativity. That is the idea that is foremost, and which ought to be considered, so we will not make a mistake.

This matter is now within your grasp, and you can achieve it yourselves. You can do more; you can ask these commissioners if they will invite our fellow-Indians living on this reservation with us—those living in the woods—to reside on this reservation and make it a common resort for us here.

That is all I have to say relative to the signing, if that is what you call signing. For my part, I am against having anything done clandestinely. If I touch the pen, I will do so because I think I understand what I am doing it for. I am against having anything done in secret. If it is my conviction that I am right, I shall touch the pen under that conviction.

My heart hangs just like the heart of my nephew, Sturgeon Man, as shown by his speech here. I am afraid of the Pillagers; I am afraid of them because I know what they are and what their impulses may lead them to. I have been a young man, and I have worked hard against the impulses of the young men. When I look at the number of men here, and the women with their children over there, I remember that it is their interest which we should consider. We ought to advise with each other as to what is best. I do not remember exactly the number of years, but it seems a long number of years that support was promised, and that is what we ought to discuss and understand intelligently among each other. My heart hangs in this way. Whenever I have a morsel to eat it is the greatest wish of my life that I could have every one partake of that morsel with me. This is the feeling which actuates me in expressing myself in this way.

HAH-GE-GAH-BOW. I was selected also to speak for the people. When the whites came here and visited us they also appointed me as speaker. You can see this man sitting here, the friend of our fathers [Mr. Rice]. The value of the land that was ceded by our fathers ought to have been a sufficiency to have supported us all. It has pleased the Master of Life that we should enjoy everything
377 pertaining to this lake upon which we are placed. When he put us here he put also the wherewith from which we should get our subsistence. We used to put a great deal of trust for our subsistence on that lake that they are now spoiling for us. It was the pleasure of the Master of Life that we should get from the waters in this lake what should be our subsistence, and the Master of Life thinks to-day, "I have put in that place what I want my people to enjoy—the fruits and everything that is grown there." You must see yourself that it is all spoilt by the whites. That is the reason that we are compelled to dig snake-root sometimes for subsistence. If it had not been for the action of the whites in stopping up the rivers with the reservoirs we would not be compelled to do that for a subsistence. We thought we had arrived at a time when a settlement for these reservoirs should be made; something of a sufficiency to support us; that is the idea we still entertain. And, my friend, you are the one who told us to keep quiet and live in peace, and that is why we have; but we see that those dams are conquering us. If you had not spoken to us we would have opened all those dams long ago. My friend, I have told you the truth.

KAY-GYAW-JE-WAY-BE-NUNG. My friend, I wish to yet say a few more words to you. I wish to tell you how the way you have spoken to us looks to me—about the persons who came here, the commis-

sioners, who got some signatures, those from Washington. That is the very way they went at us—they whipped us with words at the time that they saw they could not effect anything here. I was the one who got up and told them that we did not want and would not receive anything like that. That is the way I expressed myself to you, and we do not wish to have anything that will harm us at all, to befall us.

All that we are contending for is something that will support us, which is why we are in council and debating matters relating to that. We can now see right through you and that you are a white man; that whenever you are talking to Indians you know what weapons to use to them. We are not scared at all; what do we do at which we should be scared? We do nothing of that kind.

It is not you, who are a white man, that we talk in this way about. It is the Indians, who have a claim against the Government, which owes us something—that is who we are talking about. That is what we say, and we say it altogether. There is nothing which would harm the Pillagers so much as that which you now bring to them. It is our property, and it is for us to take care of it. We will not give up to the Indian who wishes to sign away our rights to this place. We do not wish to restrain any one who wishes to touch the pen, but we wish to do that to him [making a sweeping motion with his arm] and move him away, so that he can not touch the pen. That is what we have made up our minds to. This is our conclusion, and we do not wish to accept of the propositions you have placed before the Pillagers. My friends, I wish you to think that that is our ultimatum.

STURGEON MAN. The more we talk with the commissioners the more they look as if they wanted to intimidate us; tell them that they may go home.

(So much disturbance was made that the council was broken up. A few minutes later an Indian appeared before the commissioners, saying he wanted to know if they were going to listen to the man who had spoken (Sturgeon Man) and go home, as in that case he would do so also. Mr. Rice replied that the commissioners wished to hear from other parties, and that they who desired to speak would be given an opportunity. An Indian afterwards came forward to show Mr. Rice some papers and letters he had, demonstrating that he was the son of a chief now dead, and requesting a letter from the commissioners to aid in increasing the size of his band. He was promised the desired letter.)

FIFTH COUNCIL AT LEECH LAKE

AUGUST 13, 1889.

The Indians spent this day in counciling among themselves, but at 5.30 p. m. the commission received a message that they desired to meet its members in council, whereupon the commissioners appeared at the school house, where the Indians had already assembled.

Mr. RICE. In accordance with your request we meet you this morning, and are now ready to hear what you have to say.

MAY-COD-AY-WE-CO-NOY-AY. The words of the man who will speak after me are the words of the Pillagers as a body.

NO-DIN-AH-QUAH-UM (addressing the Indians). After my words yesterday, my friends, I thought we had better discuss this matter well before proceeding further. I thought that my words would have effect. I was extremely surprised that a motion was made to call a council to-day. This was disrespectful to the commissioners.

The results of our consultations are all for the best. I was not empowered to utter the words I used yesterday in the council and objections were made to it. If I made a mistake, of course I owe them an apology. The reason I spoke in the way I did was, that I was afraid our friends here (the commissioners) would take
378 offense at the words uttered yesterday, and I thought it was better to say what I did, even without authority. I was afraid, under the excitement at the time, we would become estranged, and I spoke under impulse. It is desired that the speech I made yesterday be not made a part of the record, and it is in accordance with their wishes that I made this demand. I make this request because I think a great deal of our people. That is all I have to say for the present. There is another man who will speak. I do not know what he intends to say.

Mr. RICE. Whenever a man comes frankly forward and says that he has made a mistake, and has uttered that which he did not intend to because he was under excitement, of course we will take it out of the record. Nothing pleases us so much as plain, straightforward, honest talk.

STURGEON MAN. My friends, I appear to you now as an Indian. [Meaning that he had not assumed paint, feathers, and a blanket.] They have opened the door for me and allowed me to speak again to you. And you know, my friends, that it is the wish of the people here that I should utter these words in their behalf, and that I should tell you their feeling. I wish to say a few words right here. I wish to speak on my own behalf, and that you should see me as I am, all three of you. It is a positive fact that I am selected—I am hired, as it were, to speak to you.

My friends tell me that whenever a man speaks hard to you, do not get cross over the matter—overlook it. That is what I am told to say, and that is the way I am told to act.

My friends, I am told to say to you that the Pillager Indians had no faith in themselves. That they should not detain you very long, before going to our own work, which it is so essential that we should do. They say that we ought not to speak to our friends any more; that we shall tire out our friends. There is a great deal for us to do, and we ought to be attending to that kind of work. They say that they do not wish to have this act of Congress at all; that they do not want to accept the propositions made to them. That is what they told me to say, and that is all they told me to say.

MAY-OOD-AY-WE-CO-NOY-AY. A mistake was made by the messenger we employed to call this council. If you wish to have anything more to say, we will have our chiefs see you.

Mr. RICE. I hardly think it is for your good to send to the Great Father the only message you have delivered. I think if you have any regard for yourselves, and I know you have, you will send a different message. I think the chiefs should speak. He will ask, "Where are the chiefs?" What shall we say? He will think we made a mistake, and that we did not find out way to the Pillagers. He will ask why you sent to him the messages you forwarded three years ago; what can we say? He sent us the paper you signed, and we have all your names. You said you did not want to go to White Earth. He will ask if you were laughing at him then, or if you are laughing at him now. He will ask if the chiefs are dead? I have looked over the list and find that not one of them has spoken. When he sent us to bring a message to the chiefs, and through them to the young men, he will want to know if we found them.

He has had hard work for years to keep the whites from your reservation. He keeps now at Fort Snelling and in the vicinity hundreds and hundreds of troops to protect you. There is no trouble among the whites. Do you wish him to turn his back upon you? If so, you can probably force him to do it. We are taking back to the Great Father from the Pillagers no massage but insults. One man gets up and says that he speaks for the Pillagers. He says he speaks for the chiefs, the headmen, and the young men, and you send through him word to the Great Father that you will throw the first man who touches the pen into the lake. You will say that the man who attempts to touch the pen will be brushed away, and that if it had not been for me you would have destroyed the reservoir dams.

What words are these for us to take to Washington? Threats and insults? Do you know what the consequence will be? Talk about your land—about not parting with your land—you don't know what you are saying; you do not own a foot of land. This land was taken from you and the British, and the Great Father has never given it back to you, but as a kind father has permitted you to live here as his children. As I told you yesterday, you can not sell a tree and have no control over the reservation. If a white man comes here to trade you can not interfere with him or prevent his remaining, as he has the same right here that you have, for he has the permission of the Government.

You have heard of the trouble that the Mille Lacs are in and have been in for years, because the whites are surrounding them, wanting their land and their pine. To prevent a repetition of those troubles at White Earth, Red Lake, and here, he has sent us this message: To stand between you and the white man, and to give the Indian land which he may hold as the white man holds his. As soon as it can be accomplished, each Indian will have his patent—each man, woman, and child—and then no one can trouble them further. We made this arrangement at White Earth, and they are now out

looking up the sugar bush and the hay lands, so each may have some of his own.

379 He told us to come here and make the same propositions to you, and then to hurry on to Mille Lac and try to give them relief; but judging from the last news we have received, they may be driven from the reservation before we can get there. You talk of selling this reservation. How much of it do you sell when you have taken out your allotments? You get the most of it yourselves. You will be so little disturbed that you will hardly know that you have parted with any. You will not only remain here if you wish, but your Great Father offers to send you money already appropriated. Is there a man among you who refuses money when offered?

When we have sent the words you have spoken, who will be brave enough to speak on behalf of the Pillagers? When you have thrown away the few friends you have, will you be any stronger than you are now? Where will you look for friends after treating the Government in the way you propose? Are his, the Great Father's, white children going to take up the fight in your interest as against him? I do not know of a man of sense or influence who will dare to say a word in your behalf hereafter. You have treated him with contempt. You have not even asked a question in regard to the measure that he sends you. He will make inquiry, and he will discover who instigated all this. After all these years I have worked for you will you refuse the opportunity to better yourselves, now offered? I am so surprised that I do not know what to say. It seems to me that you are asleep, or else there is some evil spirit poisoning your ears. I can say no more. I received word this afternoon that the chiefs wished to meet us at 9 o'clock to-morrow morning. Perhaps you wish to withdraw that request. If so, do it.

O-GE-MAH. No one pushes me forward to say what I am about to. I am at a loss. I have not seen the message you brought here to be discussed. You have been here a great many days. If anybody had come forward and asked you to state what you have brought, we should have understood the whole thing by this time. It would have been a pity, after all this discussion, if we were unable to say that we object to such and such points, and we do not think it is right to decide without discussion. We have had a council to-day of the chiefs and many of the young men. We have discussed this matter fully in all its merits, and we made up our minds it was about time to ask you about the propositions you bring and have some light thrown upon the matter. I have been waiting for this moment. I understood that this moment would come; now it is our turn. Now, remember, my shake of the hand with you is for 9 o'clock to-morrow morning.

Mr. RICE. I feel that light is breaking. There is nothing in that paper that can not be discussed or that we can not explain to you. If there are any points you do not understand, think them over and ask us about them in the morning—not once, but a dozen times if necessary; we came here to wait patiently.

No-din-ah-quah-um then addressed the Indians.

MAY-DWAY-WE-NIND. I wish to say that the interpreter made a mistake in translating for me yesterday. I did not mean that if a man should sign he would go into the water; but that if a man signed he would sign on the water.

STURGEON MAN. The chiefs are ignorant of the paper that you bring here.

Ben Fairbanks had the paper you brought here and that you are now discussing. The paper was read to us by persons who did not understand it very well themselves so as to give right interpretation. Although many understand how to read, it is difficult to understand the bill thoroughly. We went to the Rev. Clement H. Beaulieu, who is the one who interpreted to us. There were three of us who went and had it read, and we understood the whole thing as it was.

I wish to speak of one thing more. It was understood there were fifteen bands of Indians who will participate in the $90,000, and the Red Lake Indians brought word that there was $90,000 to be given to them alone. The Rev. Clement H. Beaulieu listened to them, and they said that, and also Ben Fairbanks. The men told the Rev. Clement H. Beaulieu and Ben Fairbanks that they misconstrued the bill relative to the $90,000. I told them we understood there was fifteen bands to participate in the $90,000. The old captain of police said there was $90,000 to be used for the Red Lake Indians alone. The reason we objected to the bill was that $90,000, used among so many Indians, would make our per capita too small. That is, I suppose, the same bill that you are talking about.

An Otter Tail Pillager, living at Pine Point, then stepped forward and addressed the Indians in a forcible speech, telling them that his band had gone home because they had crops to look after, if the Leech Lakers had not; that they had not time to remain and take part in their wrangles; and that they accepted in all respects the propositions made by the commissioners, and then addressed the latter as follows:

We wish you to understand that our band will follow the course of the people at White Earth. We have agreed that those who did not receive annuities on the reservation should not be allowed there. There is a family at our place which has just arrived there and has marked out a good deal of land. They were brought up out-
380 side of the reservation among the whites, and they have taken the land since the agreement was made at White Earth.

We would like to know whether you are going to pay for the land improved under the working clause, and give those who have cultivated ten acres a certificate for forty, and whether you are going to give land to others without the working clause being operated in their cases.

A man there who has made improvements for seven years has sold them. Is that allowable? The land is all fenced in and opened as a farm. It happens to be a white man who has hold of the land, and his reputation is very bad. It was my son who sold the land

and improvements. He is a good worker, and I am not well pleased with his action, after working so long on the land and then selling it to this white man, whose reputation I do not like.

Our Great Father has given privileges on the reservation to a white man who has no interest there. He does whatever he pleases on the reservation, as though it was his own. Is that allowable? I crave a piece of paper showing whether he has a right there. I do not wish that man to be in my way there, relative to the land that was bought for me to reap the benefits of.

We have never had any trouble with the white men who are married in our people because there was, so to speak, a line between us.

The temper of the man of whom I speak is so violent that once this summer he was aiming at me with his gun.

Mr. RICE. It is customary for your Great Father to send commissioners to make treaties, and then send others to carry them out, but in this case it is differently arranged. He sent us, not only to make the treaty, but to make the allotments. A man and his family need not take their land all together—one can take his in one place—agricultural land—and another can take hay land, and if there is a piece of sugar bush, one can go and take that.

It is left to us to say what land you shall take under the act, and where, but we want you and the White Earth people to make your own selections, when we will confirm them.

To show you that we have respect for the right of the Indians I will mention that at Red Lake, after the negotiations were all over, we called the Indians up and read the roll to them to decide who should stay there and who should not. We left it to the Indians. Notwithstanding all the care taken they made a mistake and sent all the way down to White Earth to have it corrected. We did the same at White Earth, and we intend to do the same with you. We shall not do anything against your interests, and if there is any difficulty we hope to have you satisfied at any rate. The white man has no right to take anything from you. If you have any bad white men there, it is an easy thing to send them off. The Great Father has now adopted an entirely different policy towards his red children. He has arranged a way to settle difficulties without resort to hard words or blows, and when we come down to Pine Point we will look into your matters and do what we can for you. At White Earth some white men had selected land, but they were stricken from the rolls. The white man has no right to buy your land or your improvements.

The law says expressly that no white man shall buy your allotments, although if one of you is not satisfied with his selection and wishes to change with or sell to another Indian, with the consent of the Secretary of the Interior it can be done. If there is any white man there interfering with you it should be reported to the agent, who has the means to correct it.

PINE POINTER. Will the people of our band receive under the bill all the benefits that the White Earth people got?

Mr. RICE. The same benefits.

Council was then adjourned.

SIXTH COUNCIL AT LEECH LAKE

AUGUST 14, 1889.

O-GE-MAH. I am addressing my people, and I wish the commissioners to know what I am saying. It is this: First, if you should accept of this proposition, it is essential that you should understand all the points contained in that instrument. We must ask questions, and then have them answered. A great many things escape our memory. If this meets your views, and I know it does, that will be our way of procedure.

(The friendly Indians were largely present at the opening of the council; but those opposed to the negotiations came later and with such noisy and hostile demonstration that the business of the council was, for a time, interrupted. The hostile Indians were demonstrative and threatening, and clearly expected to intimidate the commission and the friendly Indians, so that no more councils would be attempted. Signally failing in this, they became quiet, and after a period of silence one of their number came forward
381 and said that the occurrences of the morning were not expected by a majority of the band and were not approved by them, and that it was their earnest wish that it might be wiped off the paper and not be sent to the Great Father at Washington. After a short consultation it was agreed that their wishes should be complied with; it was accordingly stricken from the record. From this time on no further hostile demonstrations were made, and the commission proceeded with its tedious work without further interruptions.)

RUTH FLAT-MOUTH. I have a few words to say to the Pillagers, to my relatives, those living in poverty together at this place. It is twelve years since I adopted religion. I feel in my heart that I have a duty to perform, in pitying every person who deserves pity, and I ask the Master of Life to help me in my efforts. I think that I am helped.

I have been trying very hard and I have succeeded in my efforts to carry myself so as to command respect. No one has given me any lessons. What I am going to say comes from my heart. I do not believe that it will be possible for any person to state to me just exactly what I think. I think it proper to carry individual ideas, and I wish to do so. While hearing your several discussions I have been listening very attentively. I have understood that you were to be of one mind and a unit in feeling. It has pleased me very much when I heard you were to be so, and I hope and wish that it should take place. I ask every day for the divine aid in this

undertaking on account of my race, and pray to Him that He shall have pity on the Indians in relation to this matter, especially those who are ignorant and do not understand anything. My relatives, it is the greatest and most sincere wish of my life that we should be pitied by the Master of Life and that He should be pleased to spread over us peace, so that our village here shall have harmony in it and not turmoil.

Now, about what the white man has enacted and which now lies upon the table. I wish that you should hear me and take pity on my words. I wish you all to have your ears well open so that you can listen, that you should understand for yourselves what is good. It is easy to understand what is good, and it is just as easy to listen to the evil spirit. It is my sincere wish that you should all listen attentively, so that you may understand everything that is said to you. I remember my father when he used to live on this earth, and I know very well that at the time of his death he left me the hereditary chieftainship, but it was my wish that my brother should carry the burden which I did not wish alone, but my brother is not here to-day on his own land. I am the only one who represents our father now on this reservation, and I shall follow the track which is good. That is the way I am going to travel. That is all I have to say, and it is my sincere wish that the chiefs should talk after me.

Mr. RICE. I know how it is with you; that you are liable to be misinformed. We know of the messages sent from below by your enemies. We know that promises were made and letters written. We know that one was written telling you that if anyone was arrested he would not be punished.

Your old men are passing away, and soon will be gone. The young men here will soon take their places. It is wise for the young to listen to the old, because the responsibility now upon the old will soon be upon their shoulders.

I am not surprised that some of the young men, when they saw these papers, supposed they were brought here for you to sign. That is not so. All that are here are to enable us to give you the information you desired. I also know that no one can listen or speak properly when he is excited; so we will sweep away all that occurred this morning.

We know by these papers sent from Washington, which many of you have signed, that you wanted your Great Father to permit you to remain here. After long consideration the Great Council consented that you should remain. We can now appreciate how uneasy and alarmed you were when told that our object was to remove you. I confess I was mistaken in the Pillagers when I came and learned the thoughts that occupied your minds. I did not suppose anyone had been so wicked as to try to make you believe that you were to be compelled to leave the homes of your fathers. After all the stories had been told you, I can see where the trouble was. We bring you the most solemn assurances, not only in words but in

writing, that all those who wish to remain here can do so. We are authorized to tell you to take your allotments wherever you please—your hay lands, lands to cultivate; take your sugar bush; take anything that can be of use to you, except the pine. We are not only authorized to tell you this, but to carry it into effect. We are empowered to give you your allotments, with the title to them. You are to have the first choice. Go and take whatever you please. Take it, and it will be given to you. Not given to hold as you hold this land now, but the patent will be given to you. Every head of the family takes 160 acres, which is a very large farm. Every single man and woman each takes 80 acres, and every child takes 40 acres, which is selected by its father, or its mother if it has no father. Every orphan who is not of age receives 80 acres. When this shall all be done you will cease to hear anything more of the troublesome whites.

382 We invited Rev. Mr. Beaulieu and Mr. Fairbanks here this morning, and others, to see that our words were not misunderstood. We have granted your request that you should have your own interpreter.

You have been told that you will have to divide with a great many. That is not so. You divide with no one; others divide with you. Your brothers of the White Earth Reservation have sold more pine land to be thrown into the common pool than all you have got. The Red Lake Indians put into the pool twenty dollars and more where you put in one.

There are friends of yours here who can read and who know all this. There are men who have made you believe that this proposition was sent to you by your enemy. Would an enemy send you money in advance of the sale of any of your lands? Before a foot of your land is disposed of the Great Father sends you $90,000 per year. Now, we can not tell you exactly how much that will amount to per capita, for we have not taken the census of all the Indians yet, but we have gone far enough to know that, put on top of what you now receive, it will amount to over $10 each—that is, for every man, woman, and child. It is also provided that if you wish to have any portion of it expended in farming implements it shall be done. If not, it shall be paid to you. But it is left to you to say whether you will have it all in money or not. Now, when each man, woman, and child gets an allotment, how much will you have sold? What I have told you is just what you asked for in this paper, excepting that your Great Father, in consideration of certain matters being unsettled, will send you the $90,000.

These are matters we wish you to consider. Cast from you all you have heard contrary to what we say. The greatest responsibility rests upon you. Not only upon the chiefs but upon the braves and the young men.

BIG DOG. I am telling the chiefs to be very careful in what they say in their talk. I shake hands with you. This is a matter of the

utmost consequence. I am speaking to the chiefs, the braves, and the young men, telling them to take into consideration that there are many here now who will not be here fifty years hence. Nor will those commissioners, by their looks. But there will be some people amongst them who will carry this out.

(Kay-ke-now-aus-e-kung made a speech to the Indians which he did not wish to go on record, in which he counseled further consideration of a treaty.)

NOW-WE-GE-SHIG. My friends, we now understand everything you have just said. Will you please not to hurry us, but allow us to deliberate on the matter.

Mr. RICE. There is nothing gives us more pleasure than the prospect of your being united, because otherwise you can not be strong, and I shall feel whenever a Pillager visits me in St. Paul, no matter whether he is an old or a young man, that I can take him by the hand, as I always have done. Now, that we have got down to business, we hope you will take in consulting all the time required. Any misunderstandings amongst yourselves must be settled by you.

An adjournment was then taken, at the request of the Indians, until 4 o'clock.

AFTERNOON SESSION

Bishop MARTY. This bill will benefit the old men, and it is especially arranged for the good of the young men. If the young men had now plenty of game, then I would say to them, as I said to the Sioux, "As long as you have plenty of buffalo, stay as you are"; but you know as well as I do that the game is fast disappearing, and that there will after awhile be none left.

During the fourteen years I have been with the Sioux the young men have concluded to take lands and go to farming, making a living in that way independently for themselves. Instead of going a great distance for berries, plums, or other fruits, they have in their fields and gardens whatever they wish of vegetables and other good things. Instead of running a great distance through swamps and over stumps and stones after moose or deer, they have the cattle right in their yards when they want meat.

The lands the Chippewas have are even better than those of the Sioux. But you need to make use of the lands with horses, cattle, and farming implements of every kind. Among white men, if one needs anything, he has to sell a part of what he has, buying with the proceeds that which he needs. The Indians can not do that because they are not very smart at making a bargain and generally do not get a good price.

We have an example of this in the Indians of Lake Superior. They have sold their pine, and to-day are as poor as they ever were. Your Great Father does not want you to lose your land and your pine in the same way. He first wants you to have all the land you can use, and then wants you to sell the remainder, which can be sold

on your behalf at the very highest price. With the proceeds he will buy whatever you need to make you prosperous farmers. I said to myself, in thinking it over, if the Sioux can succeed so well, surely the Chippewas, who have always been a peaceable and tractable people, can do well. So I conclude, although it is pretty hard
383 to travel in this country, and I was very sick on my way back from Red Lake, because I am an old man now, I concluded that I would come and talk with you so you would not lose these advantages, but be benefited by it just as the Sioux are. So I am here now to explain matters and answer all your questions. This is an important moment in your lives, and we can not take too much time to ascertain what is best and put it into effect.

The Great Spirit who made you all wants you to have plenty in this life and to be happy when you reach the other world. He has given us reason so that we can see what is good and what is bad, and we must make use of that reason.

He has given us eyes; but if we shut them we no not see. If we use our reason we can discover what is best for us. I have already prayed to the Great Spirit to help you to understand what is best for yourselves and your families. I shall not give it up until I see you started on the right road.

Commissioner WHITING. My friends, I had purposed to say a word to you this afternoon, but the good bishop has come and has given you an interesting talk. As I believe you came this afternoon to ask questions of the commission, I must not take up a single moment of your time, except so far as any inquiry may be made which I am able to answer.

Some time before we part I want to speak a word so loud that every Pillager shall hear. The chairman will now give his attention to any question to which you invite it concerning this bill.

NO-DIN-AH-QUAH-UM (after addressing the Indians). It has been understood that any excitement or ill-feeling in these councils should be put aside, and it is essential that it should be.

We have always expressed our feelings relative to our friend who has paid us a visit here. We have expressed ourselves in such terms that it can not be mistaken that it was a pleasure to us to see him. Although circumstances have arisen which were unpleasant, it now seems brighter, and we will proceed to business on that basis.

While our friend was on a visit to the other reservations we heard that he had had a misfortune, having lost his brother, and that he had to go to St. Paul relative to that. We said that we would cast everything to one side which would cause excitement or ill-feeling. We have heard that there was to be an arrest here of a young man on account of that transaction this morning. We wish to know if that is a fact. We understood that his name had been put down. Just see; the Master of Life listens to us. We sent for one of our ministers to implore Divine aid. We wish everything should go peaceable. Have we asked in vain? I ask for my satisfaction and that of others. Here is a bishop and a priest who have come here.

They are men of prayers, and we wish everything conducted with peace and a good feeling.

Mr. RICE. I had supposed that all that had occurred this morning was buried.

RUTH FLAT MOUTH. I have been permitted to ask a few questions. I wish to know what will be the value of the land which troubles us so much and which was borrowed from the Pillagers? Also, what will be the amount paid for the damages done by the overflow, which destroys our subsistence? That is all I have to say. This is all I am permitted to ask. We wish to know what the prospects are of obtaining anything for the land which we loaned, and for the damages for the reservoirs.

Bishop MARTY. I am sure that when the attention of Congress shall be called to this matter that they will pay you a reasonable sum for the land you gave for the Menominees. Congress never acts upon anything until the matter is brought up by one having authority and in whom they have confidence.

As we have been selected by the white people to come here and speak to the Indians in their name, Congress will listen to us when we speak in your behalf. The other two commissioners have already promised to bring this matter before Congress, and I am only too glad to join them in it.

The claims arising from the reservoirs are more recent, as it is only three years since the damages were estimated by commissioners appointed by the Government. It is now well known what your claim is, and it needs only to be brought before Congress to be allowed.

I told the men at White Earth why these grants had not been made sooner by Congress. It was because it was feared that the money would not do you any good; that it would slip through your fingers, like other money you have received. But when you accept this treaty and thereby show that you wish to make a fresh start, then the means will be given to you. If you accept this offer and sign the treaty, we can go before Congress and say, "Here is a people who are ready to make the very best use of what you give them. These men have sense, thinking not alone of the present, but of the future; not only of themselves but of their children." We know that the majority in Congress, who are friends of the Indians, will be glad to hear it and will grant their petition.

O-GE-MAH. My friend, I wish also to ask you a few questions. My friend, do not let my words offend you. This is the first thing the Pillagers wish to know of you. It is because all these other
persons, who have made these former bargains, our old men,
384 our fathers, most of them have died off, and a great many
of our young men think, and they think that they think right, that they ought to have these old affairs settled before they enter into any new arrangement.

My friend, when we heard that you were coming here, we thought that you were standing on top of what is due the Pillagers. My

friend, I speak to you because I know you are in power. I know you have the strength, which is why the Pillagers do not want to step over the old affairs, and begin a new one. Our fathers, who made the arrangement with you, told us, always to keep in view the land that had been borrowed from us. "Some of these days, while he is living, just ask these questions," of you my friend.

About the reservoir dams, my friend; you can not imagine the damages done to all our people in the way of subsistence. It is the sincere wish of all the Pillagers that you should be capable of managing so as to enable us to come to an arrangement relative to all these things. The men, women, and children demand it of you. Now, my friend, do not be surprised at what I tell you. The reason there is so much trouble with these Pillagers is, the promises and the faith that has been broken with them; so many promises made have been broken that they are suspicious about any promises made to them now.

Now, my friend, I shall talk to you of something else. At the time the Pillagers went down to Washington and ceded a large portion of the country, there was a promise made of some money that should go to one side—the utility fund—for the use of the Pillagers here. My friend, I am a little foolish, and if I had not been I would have saved the paper which was given to me in St. Paul. What I allude to in that paper, I took $300 of the money to bring me here when I was coming back. That, my friend, is what these Indians ask of you to-day, the utility fund. The Pillagers say that they wish our friend would cause that money to be placed in our hands.

At another time when they were paying me here, they used to put some money into my hand for the services of my band, but while they were paying me, that money disappeared. Why does our Great Father take away from us that which he had promised to give us? I never take back any land that I once sell him. That is all I have to say, my friend. This other man will now speak to you.

Mr. RICE. It is very hard to answer some questions. It is sometimes very difficult to give reasons, even when you think you have them. In regard to the land you lent and in regard to the reservoirs, I have done all I possibly could to keep the matters alive and keep them on the books. But you all know how it is; when you see a big thing little things are lost sight of.

If we could do so, we would take all these back matters and put them into this, but as I explained to you the other day, should we do it, the whole thing must go back to Congress, and how long it would remain there no one knows. But as it now stands, if it is successful here, the President's signature makes an end of it. But the Great Father told us to listen to all you might say, put it in writing and send it to him that he might look it over, which we hoped would be satisfactory to you.

After we received our appointments, we met in St. Paul and spent several days consulting as to what course was best to pursue. When

this business is disposed of, we can all go to work and see that justice is done as to past transactions.

Council then adjourned.

SEVENTH COUNCIL AT LEECH LAKE

AUGUST 15, 1889.

O-GE-MAH. What I want to say on behalf of the Pillagers is that matters should be pointed out to us in such a way that it will be impossible to misunderstand. It is absolutely our wish, and we covet to understand this matter thoroughly. We will, during the day, point out the different points on which we want information.

NO-DIN-AH-QUAH-UM (after telling the Indians that they should begin to ask questions). The time has arrived when you should explain once more the whole nature of this agreement. How many bands will be included in this agreement of consolidation? How much will each person, including the children, be entitled to? Will it fall to our lot to remove from this place? Will there be any land left for children who may be born hereafter?

Bishop MARTY. As the other two commissioners have already spoken to you of these matters, I will talk to you this morning. You will see that we have the same understanding, because I will tell you just what has already repeatedly been said. All the bands of the Chippewa Indians in the State of Minnesota are included in the consolidation. You are one people, and Congress wants you to be all treated alike. It is also the will of the Great Spirit that the Indians should be one family, one people, and that they should love each other as brothers. Is that a satisfactory answer to the first question?

O-GE-MAH. I understand that.

385 Bishop MARTY. The second question was whether you would be allowed to settle here or would have to go elsewhere. Congress offers you the privilege of remaining here or going to White Earth. After you are once settled permanently you can not be removed. There is a great difference between this and all other treaties heretofore made, when men would come from the Great Father to you and leave after making promises and never come back. If that had been the plan this time I would have had nothing to do with it, as, if it had been like other treaties, a later messenger might have repudiated what we do. We three have been appointed, not only to get your consent, but to make allotments. Every one of you is to take the land to which he is entitled, when we will make report to the Great Father and procure the patent for him. Our work will not be done until each man has the writing for the land which he and his wife and his children own. You will then hold your land by exactly the same title as the white man. To make sure that you do not lose it no white man can buy it for twenty-five years. So the land you select is to be yours forever, and it will be free from taxes for twenty-five years.

No land will be reserved for children born after the allotments are made, because every family will have so much land that it will be sufficient for them and their children. When a father or mother dies the land will go to the children, and when a child dies the land will go back to the father and mother, and when the parents are dead it will go to the brothers or sisters. There will always be sufficient land because it will remain in the family. Does the speaker understand it?

NO-DIN-AH-QUAH-UM. Yes.

KAY-ME-WUN-OUSH (after telling the Indians that he did not wish his motives to be misunderstood by them). Well, my friend [Mr. Rice], I suppose it has been ordained that we should meet. It must have pleased the Master of Life that we should ask these questions of each other. I shall inquire for the benefit of all the Indians and the mixed-bloods. At what time will the allotments begin to be made where you visited before coming here? When will the Indians be in possession of what you promise them? Will the Indian select for himself, or will a white man select for him? When is there a chance of our receiving remuneration for the land we loaned the Government? That is all that I have to ask at present.

Mr. RICE. In regard to the allotments, you can take them at once. After this agreement is concluded, you need not wait a day. You are allowed to make selections yourself, for yourselves and for your children. Your agent is authorized to select for the orphan children. I supposed he will consult with you. He is here and can speak for himself.

We received news yesterday that the White Earth Indians were tumbling over each other in their haste to secure their allotments. Their land is, however, surveyed into lots, which yours is not as yet. The law requires that whenever your lands shall cross a line there shall be just settlement between you before the deed is given, but that does not prevent your taking possession at once. One of you may have to move a little to one side or the other in order to let the Government lines come straight, so that you will always know where you boundaries are. The money is already appropriated to make the survey, and as soon as that is done we are authorized to come back here and give you your papers.

The head of the family must take his 160 acres in one place, but he can locate his children around wherever he pleases. That is arranged so that you may have agricultural lands, sugar bush, hay lands, whatever you want. If we can get around in time the survey will probably be commenced this winter, as the money is already in the Treasury. We understand that the outside lines have been run, and if so, it will not take a great while to subdivide into smaller tracts.

In regard to the land that I borrowed of you so many years ago, all that we can say is that we will go to work at once and see what we can get for you. We give your our word that we will do the best we can.

WAY-ZOW-WE-GWON-ABE. I have also a few questions to ask our friends. Will there be any pine left for the use of the Indians on this reservation? Another thing, I am very deaf; so deaf it is hard for me to understand. That no one will be deaf, but that all these Indians shall understand, we wish as definite an answer as possible. We do not wish to hear the words "may be" or the word "if." Referring to this new payment, how much do you suppose will be actually received per capita?

Mr. RICE. We know that out of the $90,000 which your Great Father lends you each man, woman, and child will receive nearly $10. We do not know exactly, because we have to take the roll as we go along. We know it can never be less, because after the sales of the lands begin the amounts paid you will increase. It will continue to increase until the sales, less expenses, shall amount to three millions. It will be different from other treaties, as instead of decreasing the amount coming to each will increase.

In regard to pine, we have already recommended a mill for Red Lake and a mill for White Earth. We shall also recommend
386 one to be built here, and if successful you will have lumber to build houses and for other purposes. But after the fund shall amount to three millions you will have money to buy whatever may be necessary.

KAY-HE-WUM-OUSH. Sometimes I feel it a burden to be pushed forward so much to ask questions, but I have so much to say. There is another thing that all these Indians and mixed-bloods ask of you. The land that our fathers ceded to you in Washington, and which we are still in chase after; at the time of the cession in Washington I was there and remember having seen you sitting with the commission. The Pillagers have different stories and versions of it. We wish you to state what the size of the reservation for the Pillagers was. Sometime it appears to me like a meal of victuals, as it were. The more you eat out of that meal the less there is, and it seems as if sometimes this meal of our is large, and at other times it appears to have dwindled into insignificance. Is there any one who has taken a morsel or a bite out of that so as to make it look small at this time! I remember very well the time the paper was handed over to you to read about the lines of the reservation. That is all I have to say.

Mr. RICE. I remember very well all about the treaty. I have it over here in my room. There has never been anything intentionally taken from you under it. I have sent for the treaty and will read the boundaries to you. While I do not know that there was, there may have been some little mistake in the survey, owing to the change in names. An Indian stated that the blame would rest upon the surveyors.

The boundaries in the treaty of 1855 began at the mouth of the Little Boy River; thence up said river to Lake Hasler; thence through said lake to its western extremity; thence in a direct line to the most southern point of Leech Lake; thence through said lake

so as to include all the islands. That is for the Pillagers of Leech Lake.

The executive order of President Grant, dated November 4, 1873, recites the following: Beginning at the mouth of Little Boy River; thence up said river to the first lake and to the southern end of the second lake on said river; thence in a direct line to the most southern point of Leech Lake.

The additional land described in this executive order was to be withdrawn from sale or other disposition and set apart for the Pillager Indians. So this reservation has been growing larger instead of smaller.

(A map was then produced and the reservation lines or boundaries shown upon it.)

(John Bassett then pointed out on the map the way he said the Chief Flat Mouth understood the lines of the reservation.)

JOHN BASSETT. Is that in accordance with your understanding of the treaty of 1855?

Mr. RICE. I do not know any more about it than is indicated on this map.

NOW-WE-GE-SHIG. When Jim Whitehead was here he told the Indians there was a place there where there was very nice pine, near Little Boy River. He said not to mind it, because the time would come when this matter would be remedied.

Mr. RICE. That is why this Executive order was made, to include that. That was made sixteen years ago, and is just as you wanted it then.

NOW-WE-GE-SHIG. We were never told when or for what cause that piece was cut off by the surveyors.

Mr. RICE. It was a mistake in the name of the lake, but the order of the President gives it back.

KAY-ME-WUN-OUSH. Every one don't understand; when was this Executive order issued making this larger?

Mr. RICE. November 4, 1873; sixteen years ago next fall.

KAY-WE-WUN-OUSH. There is no time lost in these questions. How small was the reservation before it was enlarged by this Executive order?

Mr. RICE. What the President gave you then was 18 miles long. It was 6 miles wide at one end and tapered down at the other end. About three townships were included, some 70,000 acres of land.

KAY-WE-WUN-OUSH. We are particular in asking this, because some white men are locating and settling inside the reservation lines. They have camped and selected some very nice pineries.

Bishop MARTY. That would not do them any good, because they can not hold such land.

AFTERNOON SESSION

O-GE-MAH (addressing the Indians). My friends, no one urges me to speak. I have been a listener here. There are only two sentences

that I shall utter. Although the matter has been submitted to you since the beginning of these councils, we wish once more to ask at what time, in your opinion, shall we be paid, if it can be effected, for the money for the damages by the dams? That is one question. As far as I am concerned, I have put every other thing into my heart, and I accept everything you have told me. That is all I have to say. (Addressing the Indians.) You must speak very frankly and openly, and if you have anything to ask it will be listened to.

387 Mr. RICE. The Great Council meets this fall. We are in hopes to get everything before your Great Father before the council meets, and have him recommend for adjustment to the council the reservoir and all other unsettled matters. We hope the appropriation will be made next winter, so you can get it early next season. We shall say to the Great Father and to the Great Council that if you ever will need it, it will be next spring.

Bishop MARTY. I told you yesterday that one reason Congress did not send you the money was that they were not sure you would make good use of it. At present your situation is like that of a pail without any bottom, in which no water will stay no matter how much you put in. No matter how much money is given the Indians, as they now live, they are always poor; but this treaty, when accepted by you, will be like putting a solid bottom in the pail, so that we can then tell Congress that money may be paid and will remain with you. If we can tell Congress this winter that you have accepted this, and are going to work and make good use of what you have, they will pay what is due you. If you should not accept this, your friends in Congress would have no strength; but if you all take hold of this, you can make us strong so that we can do this for you.

KAY-KE-NOW-AUS-E-KUNG (addressing the Indians). The words uttered by that man are rather a surprise to us. I do not wish to say anything to antagonize his words, but that was not the understanding at which we had arrived. We had something else to say, but let us beg a little indulgence to allow us to think over the matter more thoroughly, and to-morrow will be the great day of the negotiations.

WAB-ON-A-NO-NE. Now that you have stated the object of your mission and questions have been propounded on both sides, we have arrived at a crisis where we must understand each other. All that I have to do is to look to my chiefs here, who are going to regard the interest of the children hereafter, and for what will be our support in the coming time.

KAY-KE-NOW-AUS-E-KUNG. I wish to relate facts only as I see them. I wish to state them to Mr. Rice, because he is a very old friend and knows a good deal of our business. It can not be possible that our friend, Mr. Rice, is ignorant of the burden that he was carrying when he came among the Pillagers. The Pillagers had this idea all the time—that they wished to have that Leaf River matter settled, and also the dam arrangement. It also depended a great deal upon

that being settled before they made any new arrangement. They had made up their minds that there should be no arrangement until these back affairs had been settled. Had they been you would have achieved your object immediately. The Pillager Indian made up his mind that he would accept no proposition otherwise, and this was their ultimatum. [Shaking hands.] There is just one thing that I regret, and that is that the Government did not have you bring to us a big bank check.

Adjourned.

EIGHTH COUNCIL AT LEECH LAKE

AUGUST 16, 1889.

NO-DIN-AH-QUAH-UM. I wish to state that I think that what those commissioners bring is a very heavy load, but I understand it. I have been advised by no one. No one has invited me to touch the pen. What I have said is of my own volition.

I should have a very small allotment of land myself compared with those who have large families. When we heard that our friend would arrive here we prepared to receive him as he should be received. The emblem that I see floating above us, that is the sign of good feeling, of peace and friendship. I thoroughly believe that it is the intention to fulfill everything in the agreement. We ought to be guided by the course of our relatives who have accepted this agreement. I myself believe that it is all done in good faith, and that the Indians can rely on the fulfillment of everything that has been said. We are told that if we accept the propositions made, the matter will be laid before our Great Father in sixty days, at the time when the first snow falls. We call upon the bishop. He is an apostle of Almighty God and would, of course, not say otherwise than as God told him. I will ask these commissioners to raise up their hands and say that they will fulfill the arrangements made, if they are serious with us. I understand that just as soon as I get my allotment of land in severalty it will be like a rope put on me and I will be attached to it so it can not get away. Also, that we can then, like white men, go here and there and fear no one's menaces as long as we behave ourselves. We do not understand that the lands in severalty will chain us to our places. It seems to me a very difficult task to have all the land allotted around this lake so that no one can come inside the land we have marked. I think that the Great Father is about to utilize that land on the other side here, that which belongs to the Chippewas of the Mississippi. Do you not know that we were told we did not own a single foot of land on this reservation? As I understand it, the United States, on account of its sovereign power, owns all the land in the State of Minnesota. When I was a young man I went to the Pembina settlement and saw there the stake that marked the international line. On one side of that stake was one power, the power of our Great Father.
388 My wife is a Mississippi Indian and is entitled to the Mississippi lands. There is nothing left there, because the whites

have robbed that section of the country of everything that is of any value. The Leech Lake Reservation is the place where I should want to abide.

Mr. RICE. What has been said by the man who has just spoken is the truth. We are not only ready to attest it here but also to attest it before the Great Spirit. The white men go into the country in advance of the surveyors. They are permitted to remain there, but they do not own the land until it has been given them in allotments.

There is one point upon which we must understand each other, and that is in regard to the reservation here. You will be permitted, before the Great Father takes possession, to take your allotments. No white man will, under no circumstances, be permitted to come in here and take any piece until you are all satisfied. But after you have got your allotments you have nothing to do with what is left. That is the point I wish you to understand. As to going where you please, you can do it as well as the white man and under the same circumstances. When a white man travels he must behave himself. That is your only restraint. You will be permitted to take your allotments in White Earth if you wish to. Not pine, but you can take the sugar bush, or any other timbered lands you want. We propose to make a paper covering all these points about unsettled matters. Then you will know what we have promised. We will not only sign it, but a witness will sign it, and we will have it put into the paper we send to Washington. We do this so there may be no dispute after we are gone.

NO-DIN-QUAH-UM. I insist upon the raising of hands as to what I told the bishop.

(The three commissioners then rose and raised their hands in affirmation of the promises made, the chairman saying: "We promise to do all in our power to carry out the understanding.")

Mr. RICE. You have been deceived and disappointed many times, so that I am not surprised that you should put us to this unusual test.

KAY-KE-NOW-AUS-E-KUNG (after telling the Indians that the commissioners had given the strongest possible test). The reason we take so much pains in this matter is that the Government has never fully kept its promises to us in the past, and I can not be blamed for doing so when I am acting for my own benefit and for my own interest and the benefit and interest of my children.

KAY-ME-WUN-OUSH. My friends, the Pillagers, what slays us is the false promises of men who have come here to misrepresent things to you. I wish to ask you what has become of that which I and my children use for our subsistence and which gives us a living? Can the Pillager Indian go on the other side of this lake and select his allotment? This lake here is what the Pillager likes, here and the other side. That is the reason that the Pillager raises his voice in supplication. Another thing: If an Indian should go outside of the reservation, where the land is not occupied by the whites, could

he take his allotment there? And how is the $10 mentioned to be paid? Now, here is the point: We have chiefs and leaders of our bands. They say that as soon as we receive our allotments we cease to be chiefs. I wish an answer.

Mr. RICE. In regard to going off the reservation, the law says that an Indian belonging to no reservation can go anywhere on lands not already occupied to take his allotment. That by doing so he is not deprived of his annuities. But you can not make a selection in both places. I have told you the words of the law exactly. But as you have a reservation of your own, I do not know what construction your Great Father would place upon such cases.

In regard to the money, it will be paid to you here; that is, to such as remain here. Those who go to White Earth will be paid there. We think it will amount to about $10.

As to the rumor about your chiefs, I have heard nothing. We are ordered to leave the decision of questions under the census to the chiefs, and that will have an important bearing upon the payment of the money and the selection of land. No government, of whites or Indians, can exist without leaders, and I can not understand why any one should wish to disorganize you. When the time comes for making the allotments and carrying out this arrangement we wish the assistance of every man—the young men and the chiefs—and we want it arranged satisfactorily to every one.

NO-DIN-AH-QUAH-UM. If a person in taking land wishes to take his own field, can he also take some sugar bush; could he make two selections?

Mr. RICE. If there is no more than one in the family, of course the different selections can be made.

NO-DIN-AH-QUAH-UM. What is meant by the "head of the family"? Does the wife come in as another person under the law as to allotments?

Mr. RICE. Yes; the law says, "The head of the family and other persons."

Commissioner WHITING. A man and his wife can take their allotments adjoining if they please, and then the allotments of the children can be taken elsewhere if desired.

KAY-ME-WUN-OUSH. Now, my friends, I am getting to be an old man, and you see many before you who are advancing in age. How do you suppose these old men are going to make any progress with their lands in severalty? Also, how will the money for
380 the damages from reservoirs be paid us. This was talked over three years ago, and three years before that. That was the cause of our poverty, as it took from us everything upon which we depended for our subsistence.

Mr. RICE. As to the reservoir money, we think you had better let that stand just as it was in the old treaty. In that $100,000 was paid to you and $50,000 to the other Indians. It may be possible that your Great Father will be willing to add the interest, but do not expect it, as we do not promise it and can only say that we shall try to get it.

But that which is coming to you will be sufficient to furnish you with something to ride in. That, with the $90,000, will give you a good start.

No-din-ah-quah-um. In shaking hands with the chairman I shake hands with you all. Every one must understand the explanations made about the dams. Since the dams were built, however, we have been unable to get two crops of rice. As to that money, we are imposing many tasks upon you, but wish this matter of the money for the dams to be the heaviest one. We would like some assurance from you on this subject.

Mr. Rice. After we get through this business the matter of the reservoirs is the hardest job before us. We will do all in our power to have the wrongs redressed which have been inflicted upon you. If we can clean up all these matters next winter, we will come back feeling like young men again. All that has been said has been taken down on paper and will go to your Great Father. If we neglect any duty you have imposed upon us, it will be known not only to our posterity, but it will be known above. As we proceed during the winter we shall write to you, so that you will know just what we are doing.

Sturgeon Man. Those who did not sign the last agreement have asked me to talk for them in this matter. The men who held the councils in that schoolhouse three years ago, the Northwest Commission, they are the very men who asked me to go and pay a visit to our friend, Mr. Rice. At the time I refer to Now-we-ge-shig, Chief of the Mountain, and John Bassett were with me. We were promised at that time by the commission $100,000 for the Chippewas of Leech Lake and $50,000 for the Chippewas of the Mississippi. That was three years ago. We said then we did not want to set any price relative to that, but that we would wait until some other time. We told Mr. Rice that when we paid him a visit. Our friend, Mr. Rice, asked us, "What did they say to you about the dams?" We told him what we had been promised, and then he asked us, "What answer did you give?" We said that we did not wish to comply with the treaty. Hence we think that the question is still open. It it three years since that time. We think now that as we did not wish to comply with that treaty of the Northwest Commission, and as it was not ratified, we do not think that the award for the damages has been agreed to by us, as we did not sign at that time. Six years ago there was another price fixed by the commission—the Blakely commission. We expected that that would be the award. There are a great many here who do not wish to accept this arrangement now. All the chiefs are rather timid about the matter. They do not dare to say a word. It is time for us to think over the matter. There are a great many who wish to accept the arrangement. It is time we tried to come to some understanding. I have heard many say they were in favor of the propositions, but we are waiting for each other and should try to do what is best for all. We are always thinking of the raid. After this let us always do what is best for the Indians.

If we see this is good for us, let us look out for the children, and let us not lose a good opportunity. I speak now very seriously. I think it is about time that we should make up our minds and bring this wrangle to an end.

WOB-ON-A-QUAY. Let us try to come to an understanding. We should be united, but we should not be too hasty.

KAY-KE-NOW-AUS-E-KUNG. Will the man who does not sign have a right to participate in what is sent to us? And if I should sign, may be a great many of my band would leave me. How do you view that matter?

Mr. RICE. If we should say that these who do not sign should not participate in the benefits, it would be a threat. All such matters were buried the other day, and we will keep them out of sight. No distinction will be made between the man who signs and the man who does not. When the money comes, those who have not signed will probably change their minds and take their shares.

Adjourned.

NINTH COUNCIL AT LEECH LAKE

AUGUST 17, 1889.

RUTH FLAT MOUTH. I have come here again for the purpose of speaking with you about the arrangement you bring for our acceptance. I view it favorably, and I wish to say that I am very much delighted with it. I want to know if it is the desire of the Government that all those who are living on the different reservations should participate with us. The time at which I said I would
390 sign has twice passed, and I feel as though I had been talking in vain, and I wish now that the pen should be handed to me that I may sign. I say this as a figure of speech, but I will do so at 9 o'clock on Monday morning, when I hope there will be no more drawing back.

KAY-ME-WUN-OUSH. My friend, we beg of you to have a little more patience. Do not get tired of us. After you have left we should be sorry had there been any question unasked and unanswered.

My friend, I wish to state something relative to the dam. We wish to know whether the payment of the damages will stop with the payment of $100,000. You speak of the interest on the money. Can not our Great Father put a little kettle on the fire and make a medicine which will cause that interest to grow? Whenever I have any patients to attend I put my little kettle on the fire and make it boil, when I do not fail to achieve my object if the medicine is good.

Mr. RICE. In looking over my papers last night I found that two commissions had been appointed. The award of the first commission was thrown aside without being considered at all. We have examined the last award and the amount put into the treaty which has not been ratified, and with those we shall do the best we can. We will tell the Great Father that a bottom has been put into the "kettle," and that it will hold a great deal. We will tell him and

the great council how you are situated, and that with the help you need you can advance rapidly.

As we expect to return here, we will do what we can to make you glad to see us again, which is all we can say upon that subject.

KAY-ME-WUN-OUSH. There is another matter. There are still two of us who went to Washington at the time I refer to. It is about what the Mississippi Indians did when we were down there—about the land on the other side. I recognized you when this arrangement was made in Washington. We wish you to state about that cession of the Mississippi Indians—about the property on the other side—the piece north of the lake.

Mr. RICE. The treaty of 1865? I was not in Washington at that time, and had nothing to do with it. I was there in 1863, when the treaty was made, and this was concluded afterwards. Then they ceded the Gull Lake, Lake Pokegamon, and Rice Lake, sold all the land and took this north of here in place of it. They found afterwards that there was land that was good for agricultural purposes, so in 1867 it was sold, the western portion of it, for the White Earth Reservation, but kept this immediately north of you. That is the way it brought about, just exchanging twice. Is that satisfactory?

KAY-ME-WUN-OUSH. Yes, sir.

NO-DIN-AH-QUA-UM. I am yet capable of working, and if I was incapacitated I would not mention this. There is one essential thing we would like you to get for us, and that is a mill. If we have a mill, I should not like to sell the whole of our pine, so that we may have something to depend upon in building.

It would also be well if we could have the boundaries of our land defined. We are now blind as to how our lands shall lie. We hope that as soon as those arrangements are completed you may be pleased to use your influence so that we can have a mill, when we can progress at once.

We would like to know when, in your opinion, we may expect a revenue from these negotiations, the $90,000; how soon do you think it will reach us? During the fall or in the beginning of the winter there is an annuity payment made here. If this money was not here at that time, many would say, "See, we expected that money and it is not here."

I suppose it is because we have increased in number that we get a less amount as annuities than we used to. I do not speak for myself, because I am barren. We are told that we are increasing in numbers on account of the number of births, but we think the number of deaths are greater. It would be a good thing to talk to the lawmakers to make the amount of the annuities a full sum instead of $4.80. It ought to be a full $5.

Mr. RICE. At Red Lake we examined into their affairs and found they had not even a board. They once had a mill, but it was rotted down. We found the same situation at White Earth. Their mill

stopped only two years ago, and they have not had a board sawed since.

Upon inquiry we found that your agent had written to Washington urging that a mill be sent at once to Red Lake, and also one for White Earth, so they are now prepared to start anew, we hope. And when we got to Brainerd we wrote as strong a letter as we could to have a mill sent to each place at once.

You are in greater need of a mill than they are. We tried to purchase a board the other day, and might as well have tried to find a silver mine. When we saw here the remains of the old mill it reminded us of the carcass of a buffalo that the wolves had nearly eaten. We should have asked for a mill for you, even if you had said nothing of it. Whatever else you may have, you can not get ahead unless you have a mill.

That man over there spoke the other day of your pine. We intend to recommend for each of these three reservations that the
391 President, when he knows what pieces to stake, shall reserve enough for your use. There will be nothing taken from you, and nothing will be done until you get your allotments.

NOW-WE-GHE-SHIG. My friend, the words which our woman here, the queen, has said she would to-morrow, those are the words I say to you. I know that you will accept the words that I speak.

Mr. RICE. You have asked so many questions that I have forgot to answer one about the $90,000. There is no reason why the money should not be sent as soon as the Great Father has approved what we do.

KAY-ME-WUN-OUSH. Before I sign you will have the papers ready for us that you said you would leave with us. We had intended that our mixed-blood there should take a copy of that. My friends, we shall not be the first to touch the pen. You must touch the pen as commissioners first. That is what the people think who will sign. You said that you will do as you think proper. If there is anything in the paper that you leave with us which should not be fulfilled I shall feel badly. My friend, I hope you will take no offense at what I have said.

SHE-NING-GO-GOWN. My friend [Mr. Rice], do you recognize me when you look at me? My friend, I saw you at the old place. You and I were young men when we met there. I can not recognize you on account of your age—you looked so young when I saw you. That is my queen that is sitting there. I am the man that stood by the head chief Flat Mouth when you borrowed that land from me. I stood right by his side. When he got up he said, "Get up and stand by my side when I am talking with him." This man [indicating Paul H. Beaulieu] knows me well, and it is well known that I was the supporter of my chief while he was living. When you borrowed that land from my old friend Flat Mouth you told him that you would pay him five years, but you did not stop on the fifth year;

you paid him six times instead of five. You told him that you wanted to put the Menomonies there, but they were not put there. You told my old chief that when the Menomonies were well settled there—if I recollect right, you said, "You will then have what your land is worth." My friend, I have not heard what price they asked you for that land. It was our Great Father that sent you here at that time. My friend, I wish to say that I do not wish to put any obstacles in the way of this new arrangement that your Great Father sends you here to achieve.

Mr. RICE. I was glad, not only to see but to hear your old warrior. I remember well my first arrival at the old fort here. I was greeted, before the boat touched the shore, by guns. They had in them more than powder; they had bullets in them. I know at that time that they were all warriors and all great hunters, and I knew they were friendly bullets, for none of them hit me. I witnessed there at that time a scalp dance, the scalps having been taken from the Sioux. I did not ask who brought them, but they were many. I do not know but our old friend here brought them, for he brought a great many. I remember well his being the friend and supporter of Flat Mouth. He stood by the chief's side all the time I was here. It makes me feel young to again meet him, as it carries me back to the time when we first met. I hope the Master of Life will spare us both until the work we have begun now is finished, and if so, our last meeting will be as pleasant as our first one.

WAY-ZOW-WE-GWON-ABE. We have forgotten to mention what might be expected from the tamarack lands. The cedar is a very valuable tree, as well as the tamarack tree, and there is a large amount on this reservation. How is that to be disposed of?

I have always behaved myself and so have a good reputation, and I want to say that heretofore, whenever we have laid anything before the agents, all that they would content us with was promises, the fulfillment of which we have never seen, and it would be better if those promises were never made. If everything had been fulfilled that has been promised to the Indians here you would see this place more prosperous than it is and more advancement, but as you see the place now the whole settlement is in ruin. That is all.

SONG-GE-GE-SHIG. I speak for the Cass Lake Indians who are here, and wish to know if you are going to stop at Cass Lake, stopping on our shores, holding council with us, and having a talk with us.

Mr. RICE. It is our intention to go from here to your village.

SONG-GE-GE-SHIG. We will meet and have a pleasant talk there.

Mr. RICE. I shall be glad to see the old ground again.

KAY-KE-NOW-AUS-E-KUNG. My friend, when do you think you will pay us another visit? Will you bring another secretary when you come again?

Mr. RICE. I expect to bring some one. Whatever business we do will be put down on paper.

KAY-KE-NOW-AUS-E-KUNG. I want to know if you are going to bring more papers to sign.

Mr. RICE. No. The papers for the land will be signed by us.

KAY-KE-NOW-AUS-E-KUNG. I want to know if the signing is stopped when you leave here. If I should not sign at all, would you give me anything?

392 Mr. RICE. Just the same. The only difference would be that you would be eating of a deer that you did not help to kill.

KAY-KE-NOW-AUS-E-KUNG. If I should not sign, would I be allowed to go to Washington?

Mr. RICE. That is a question that I could not answer. Indians are not, however, allowed to go to Washington. I suppose you mean a delegation. The reason is, that Indians have gone there and sold their land, making agreements of which their people knew nothing.

KAY-KE-NOW-AUS-E-KUNG. That is the truth.

Mr. RICE. Your Great Father is determined that no transaction with a band of Indians shall take place hereafter without all of them knowing it.

KAY-KE-NOW-AUS-E-KUNG. That is right.

Mr. RICE. A great deal of trouble arose from Indians going there and transacting business, which they did not understand after they got home. The trouble at Mille Lac has been brought on by that very thing. Your Great Father told us to answer all your questions, putting it all on paper to send to him, and to leave nothing untold. He did not wish to hear any complaints hereafter about misunderstanding.

KAY-KE-NOW-AUS-E-KUNG. They are a little ahead of me at Washington, and those are exactly my own views. The reason I ask is, that I have only one child, and I wish to leave a memento for him and prepare him for the future. To-morrow, or day after to-morrow (Monday), we will get all ready for signing. It is not for a long time that I shake hands with you.

WAB-ON-A-ON-NE. I hope you will forgive me for not shaking hands until I get through talking with you. I do not wish any answer to what I am going to say. I get up to beg your indulgence, and that you will not get impatient with us. We have asked a great many questions which would exhaust any one's patience, but we beg you to have still a little more. I say this so that any one can ask questions, and that there may be hereafter no excuse for not understanding this. Have pity on them on account of their ignorance. There are a great many who do not know anything. It is difficult for them to understand, having no perceptive powers. You can see how ignorant they are when they are capable of making the demand that you should raise your hands. This is ignorance, and you must remember it in dealing with them. But the raising of hands impressed every one here. I for one was greatly impressed, and I said, "These men would not raise their hands unless they meant it." That very action opened my eyes, and I saw right before me what was good for my children. I saw the education and progress which civilization brings—I saw that at a glance, after the raising of hands. There are ten of our chiefs who have made up their minds and pro-

claimed that they would accept the propositions made to them. I have been advising them not to forget to ask all the questions, as it will assist in a mutual understanding to have them all answered.

Council was then adjourned until 9 o'clock, Monday, August 19, 1889.

TENTH COUNCIL AT LEECH LAKE

AUGUST 19, 1889.

Mr. RICE. We have the papers promised you on Saturday, and have brought two just alike. The interpreter will make their contents known to you.

(The interpreter read the paper containing a statement of the claims of the Pillager Indians of Leech Lake, after which one copy was given to Ruth Flatmouth, and another to William Bonga, who is designated secretary of the land, and who is told by the Indians present to remember that the paper is not his private property, but must be shown whenever they wish to see it.

Ruth Flatmouth then "touched the pen" to signify that she wished her name appended to the agreement offered by the commissioners, and stated that she wished to say a few words.)

RUTH FLATMOUTH. I wish to say a few words on behalf of my people. I wish to have it understood that you will use your influence so that no spirituous liquors shall come upon this reservation. It is the ruin of a great many of our people. During payments here it takes away the subsistence intended for the children. The money is thrown away for liquor. Not only that, when a man is in debt who has been furnished supplies, he pledges his word that he will pay at the time of the annuity payments, but the debt remains unpaid because of the appetite for liquor.

It is my wish also that I should be buried where my ancestors are buried.

SHING-QWON-A-QUOT. I wish to say, as I sign, that I want my bones to remain on this reservation.

O-CE-MAH (signing). The whole thing has been understood thoroughly to my satisfaction, so that I have nothing to say. But I think the chiefs here should all sign first.

Mr. RICE. We did not understand your arrangement, and you did not speak of it. Let all the chiefs sign first.

393 (The chiefs then signed in order of rank, the other Indians following them.)

KAY-KE-NOW-AUS-E-KUNG. I wish that there should be a spot selected so that we can make a town of our own, like Brainard, where a town can be laid out for us, not only when payments are made, but to be a central point in winter.

This big point on the other side is the place we would like to reserve, because there is lots of hay there, and it is not very large, either. Maybe the time will come when there will be no common for the cattle, and that will make a good one. It will be beneficial to all. This is an important matter.

Mr. RICE. In regard to the town site, it is supposed that that will be fixed by the agent after deciding where the best place is. Is that satisfactory?

KAY-KE-NOW-AUS-E-KUNG. Yes, sir.

Mr. RICE. That point over there is open to you all. A number of you can take it in allotments.

KAY-KE-NOW-AUS-E-KUNG. It will make good farming land. There is a place there where we can get good pine for ourselves, right opposite this place. It is called Pine Point.

Mr. RICE. Is that the wish of you all?

(The Indians said "yes."

Mr. Rice then added a clause to the statement or list of claims, in regard to the land on Pine Point.)

KAY-KE-NOW-AUS-E-KUNG. I want it understood that I am not talking for the Indians who do not wish to comply with the wishes of the Government, but I am talking for those who are signing now.

(Now-we-ge-shig, saying that he does not wish what he says to go into the record, stated that he did not quite know what position he would assume. He called for the chiefs who will sign or have signed, to rise, whereupon eleven chiefs stood up.)

NOW-WE-GE-SHIG. In shaking hands with the bishop, I shake hands with you all. My friend [Mr. Rice] instead of its being buried in oblivion, we wish you to work for remuneration for the border land—the Leaf River. My friend, we know that when you have anything to do or a point to carry, you are strong and determined in your efforts. My friend, take all these fragments that are troubling us so much, and use your influence to gather them together, so that when you come to see us again you can open your arms and we can see what your success has been. My friends, if that should not transpire—if you should fail to carry out the object, we should all be very much ashamed—all of us.

Mr. RICE. So shall we be.

NOW-WE-GE-SHIG. My friend, when you return have pity on those who do not sign, instead of being against them.

O-GE-MAH. A great many who were present at the time of which I speak are dead, but it seems to me as if it were transpiring this very day, it has been so strongly impressed upon my mind. There were the whites on one side and the Indians on the other. I felt for both, as I was in the center when there was danger in the situation. At that time the Mississippi Indians were all together to be blamed. They came very near leading me astray, but the demonstration made was their own doing, not mine. When I saw how the matters were going I took hold and made a stir. The President thanked me that there was no blood spilled there, and it was all owing to my efforts in stopping the raid. My friends, the great chiefs told me that whenever I had a request to make, to make it. You remember that very well.

Mr. RICE. I do.

NOW-WE-GE-SHIG. That is the reason that I beg of you, if any of the chiefs do not sign, do not go from here with a bad heart. So far as I am concerned I do not promise that I will sign, but toward the last I will make up my mind what I will do. My friend, I will say again that we have the utmost confidence in the commissioners. We wish you to work for us so that whenever you come again to visit us you will be able to open your hands and show us the proceeds of your work.

Mr. RICE. We have listened to your words and know that they are correct. I know of the promises made by the President, and all the white men in power know it. Your words are all carefully taken down, to be read throughout the country. When they are printed at Washington we will send copies here, so you will know what has been said.

(Mr. Rice then read the addition made to the list of claims.)

KAY-KE-NOW-AUS-E-KUNG. I am addressing the Pillagers. I signed for the Northwest Commission, and it did not amount to anything. I am now about to sign again, and if this don't amount to anything I would rather be taken and strangled by the neck with a rope. Now, what I am going to sign, I hope what I have been told shall come to pass. I hope you will get the two-thirds majority. That is all.

NOW-WE-GE-SHIG. My friend, a great many of my band told me that they would not sign, and I do not own them. You can not imagine how pleased I am with the assurances you have given. I now shake hands with you and sign.

394 WOB-ON-A-QUAY. I wish to say a few words before signing. I have never joined anything before that the Pillagers have done, but I am now for you. I have considered the matter thoroughly, and you can depend upon my word. I have a thick skull, but a stout heart, and I do not wish to lie in anything I say. I now sign and shake hands with all the commissioners.

Mr. RICE. We are very glad you have considered this so long. If you had jumped to a conclusion we might have thought you were wrong, but we know now that you are right. That is the way wise men should always do.

Adjourned.

ELEVENTH COUNCIL AT LEECH LAKE

AUGUST 20, 1889.

NO-DIN-AH-QUAH-UM. There is one thing which has been omitted, but which is essential for the success of the people herein their agricultural pursuits, and that is a boat, a steamer to take cattle or anything else, as otherwise we can not reach those places.

Bishop MARTY. I suppose all those who are here this morning have already signed the document. They have expressed sorrow that there were some who had not done so, and the wish that we should not be angry with those who had not signed, but only pity them. This

shows a very good disposition, and we hope it is that of the whole band.

KAY-ME-WUN-OUSH. After the allotments are made, when an Indian wishes to go anywhere on American soil, will he be allowed to do so?

Mr. RICE. He will be allowed to go anywhere, subject to the same laws as the white man.

KAY-ME-WUN-OUSH. I speak for every man who has signed the agreement. I do not wish to express any views on behalf of those who have not signed. We wish you [Mr. Rice] would take this into consideration. The Pillagers can get nothing in the early fall for subsistence, and in the beginning of winter the kind of provision that you are furnishing us now is furnished by the traders. We get it by exerting ourselves and get it in trade. Now, how would it be if we should ask our Great Father to fill up our dish at that time? I mean in February, when we start for the sugar bush. It is a very hard time every year, so we wish that another dish full should be given as then.

Mr. RICE. After we got through our work at White Earth so favorably, the agent, at the request of the Indians, wrote to the Great Father to know if he would not allow him to purchase some provisions to enable them to get through the harvest. The Great Father did not wait to write, but sent word over the wires to your agent to purchase the provisions necessary to enable the White Earth Indians to get through their harvest. Does that look as though the Great Father's ears were closed? That is all upon that subject, although you may make known your request to the agent.

WAB-ON-A-NO-NE. I wish to say a few words. It pleases me very much to be able to address the commission. I wish the Pillagers who are here to listen to the few words that I may say, because it will be mainly addressed to my people. Then, as life is very uncertain, it may be the last chance I shall have to talk to the commission, and I hope that whatever I shall say will be received in pity.

As I am a believer in the Master of Life, I shall refer in my remarks a great deal to Him. My friends, you are well aware of what the Master of Life's Son said to the people that He met in this world. It pleased the Master of Life to create this continent that lies between oceans and which we now inhabit, and it has pleased the Master of Life to send these persons here as a commission to point out to us the right way and how we should live.

Now you can see what ignorance will do. A great many did not even believe the words; did not accept the words uttered by the apostle [Bishop Marty] of the Master of Life; and this is the result of ignorance. You know very well that the presence of Almighty God is everywhere. He is here, before these commissioners, who are paying us a visit. This we are led to believe and do believe. Under those circumstances what have we to fear? We have nothing to fear, because we are guided by the words of the Master of Life, and everything is safe on our side, and the only thing that remains is to have

confidence in Him and we shall succeed. Any person here who has not stretched his arm and touched the pen should know that the reason we accept this proposition is because we have confidence in the Master of Life, whom I mention because He holds in His hands all our destinies. It has pleased Him to have me remain on the land on which we were born. That is the way that I feel. They are but a few words, but they are heartfelt.

Commissioner WHITING. Mr. Chairman, Pillagers, I have only words of kindness and good will to speak to you. I had heard much of you as a people, and had I followed my own inclinations I should have come to you earlier than this, but the plan of our work required that we should begin elsewhere. When our faces were turned towards your beautiful location I was glad.

I had heard that you were a people of dash and courage,
395 with full convictions of what you should do. You are a band which has a history wide as the country. I said that had I followed my own inclinations I should have come to you earlier, but I yielded to the superior wisdom of our chairman, who, by personal intercourse, knew all about you.

I have been greatly and deeply moved by the spirit of kindness you have shown toward our illustrious chairman, and this is eminently right, because all over your history for nearly half a century the name of this man appears as your benefactor. Whether as a member of the Great Council or as a citizen of the country he has been your friend always. In every book of treaties his name appears as your friend. In all the records of the Great Council, as you turn them over, you find that he was never silent when a word for you could be spoken. So now, when he comes to you to make this last arrangement with you, can you doubt him? I know you can not.

I come to you a stranger, but it is my highest honor to follow the way that he leads in your behalf.

In one of our councils I noticed a young man bearing upon his bosom a medal which had on it the face of the Great Father of 1854. I knew the face of the Father very well, and it brought back to my mind a scene that transpired many years ago in the Great Father's house. Your great chief at that time found that you were in trouble and danger, and he went to Washington to interview the commissioner at the head of Indian Affairs. He appealed to the commissioner in vain. This friend of yours [Mr. Rice], who was in the Great Council, heard of it, and he took charge of the matter himself and brought it into the council. In an almost all-night session the bill was finally passed and ready for the Great Father's approval.

The next morning, in order that the bill might be approved, this Senator, accompanied by the great chief, Flatmouth, and other Senators, went to the President's house. The great Flatmouth, after thanking his friend for what he had done, turned to the Great Father and said: "I beg you sign this bill for the relief of my people." Taking both the Great Father's hands in his, Flatmouth says: "I thank you for the encouragement you give me. Now, when

you have signed this bill give me time to make my way back to my people. Count the risings and the settings of the sun, and when you think I am there look into the heavens and when you shall see the aurora borealis with its gentle light think that it bears to you the gratitude of the Pillagers for your kindness to them."

During some of the sessions of the councils we have held with you this scene at the Great Father's house has come back to me with painful clearness, and I have asked myself, "What of this great emblem that your great chief chose to carry the gratitude of your people to your Great Father?" I said, "Shall this gentle light that has been the emblem of the Pillagers, that the President recognizes as the message from the Pillagers, shall it be changed into a flaming tongue of fire, carrying back to the President only your fierce wrath—this hot flame, that would scorch the face of the Great Father so that he would be forever blind to your wants and your necessities?" If so, what shall his answer be, and how shall it be sent to you? Shall it come to you in the black cloud, laden with thunder? Shall it come to you in the fierce storm that sweeps everything before it? I confess to you when I saw the darkness that for a time surrounded us, I was afraid, and I asked the Great Spirit to show us and you the right way.

But your action has answered all these questions—has swept away the clouds and let in the sunlight of joy and gladness to us all. And so hereafter, as in the past, this beautiful emblem will continue to carry to the Great Father only kindness. And his answers shall all come back to you, borne on the soft breezes that blow from that milder clime.

And so I wish to say to you that we are hopeful of the best. Your prospects for a higher advancement are as good as those of any people. I say to you, as I said to the people at White Earth, it requires courage and preseverance to succeed. The land you have is nothing unless you cultivate it. The money that is coming to you will be worse than nothing unless you make wise use of it. And now I say to you, as I said to your friends in White Earth, if by any possible mischance you should fail of the highest good which it is possible for you to receive, no one will regret it so much as the members of this commission. We have lifted our hands toward the Great Spirit and said that we meant every word that we had spoken to you. And I raise my hand again and renew the pledge, that no effort on my part shall be withheld for your best good.

And now one word to your queen, who has come into these councils day by day. I charge you that after the interest she has manifested in your welfare, as the representative of a great chief, I charge you to see that no harm shall come to her. I beg you to see that no want of her's goes unsupplied if it is in your power to supply it. Ruth Flatmouth, noble daughter of a noble chieftain! I ask the Great Spirit that her bark may be gently borne to the farther shore. Pillagers, I bid you a kindly farewell.

396 FIRST COUNCIL AT CASS LAKE

AUGUST 23, 1889.

Council was opened by Rev. John Coleman, a Chippewa Episcopal clergyman, followed by a few words from Maj. B. P. Shuler, Indian agent, introducing the members of the commission.

Mr. RICE. My friends, I will tell you in as few words as possible why the President sent us here. Some of you have heard the explanations before.

Mr. Rice then fully explained the act, and continued:

I know there are some unsettled matters. There is the reservoir—there is probably something coming to you from that, but by doing this you do not wipe out that at all; your claim against the Government for those damages will be as strong as ever.

As I said, this is different from former treaties. The treaty you made three years ago still lies in the Great Council. This embodies all the good parts of that, and many others. When you accept this it goes right to the President and will be closed this fall. When here 42 years ago, I told the men then living that I hoped to come back again and bring something that would be pleasing to them.

You understand that you will have time to select your allotments here on agricultural lands, such of you as wish to remain, while those who prefer to go to White Earth can do so. So it will make no difference whether you take you lands here or there, you will all receive the same.

When the pine is sold there will be plenty of work for all, cutting pine, making hay, and various other pursuits. I dare not tell you all that I think on the subject, but I have no doubt that you will be the richest Indians in the whole country in a very few years. I think before another year rolls around there will be another railroad not far from you, so that you can get supplies cheap, which will also give you a great deal of work in getting out ties and such employment.

From what I know and have heard of you you are different from many of the Indians. You are all quiet, thinking, honest people, and this proposition is so plain that I do not believe it will take you long to give an answer.

When we went to Red Lake some people tried to make a disturbance there, but when the Indians understood it they all signed, although a few living on the north shore did not agree, but they have since sent for a paper that they might also sign.

You know very well that a change has taken place. The game has left the country. You must get work in order to live and take care of your children. The building of schoolhouses and the employing of teachers—the money for these things will all be expended here, and you will have not only the advantage of educating the children at home, but you will have the advantage of the money laid out here. I can tell you that it is the best offer ever made to any Indians

on this continent. It will put you all on the road to prosperity and to living a better and a higher life.

When we leave you this time, our duties are not ended. If the Master of Life spares us, we expect to return and see that these things are carried into effect; that your allotments are made and that justice is done. I think I have told you everything. If there is any matter I have omitted, or if there are questions you wish to ask, let me know and I will explain further. There are but a few of you, but we thought it a duty to come here, and it is certainly a pleasure to me to explain to you everything even if you are few in number. Your agent accompanies us wherever we go for the purpose of hearing what is said, seeing your condition, etc., and seeing that everything is carried out, as many matters will be left to him hereafter. We are all working together as one man for your future good.

WAY-GE-MAH-WISH-KUNG. It is impossible for us to misunderstand this. I wish to talk to you on the subject of your visit. I wish to state that I should have gone to Washington when the treaty of 1855 was made. I started to go, but before I got to Leech Lake, I turned back. The man who made the cession here did not know the amount of land that belonged to us, and he made a wrong line. In 1863 three of them who went down were shown a very large reservation that we were going to own together. That man there (indicating Song-ge-ge-shig) he knew about it when his father returned from Washington.

When our reservation was set aside, we did not know anything about it. There was not a single man there from Cass Lake to mark out a reservation, and so there is no reservation to speak of. I think we are entitled to some redress on account of the land that was taken without our permission. There was no one who went from here to cede the land, and we were certainly entitled to something more than was paid us. I want to know what you think about this matter.

Mr. RICE. There have been mistakes made by Indians who went to Washington to treat, and the Great Father has decided that no more Indians should come there for that purpose, but that treaties should be made on your own ground, so you will all know what is done.

397 You (Way-ge-mah-wish-kung) can remember when you were a small boy, this country was all taken from the Sioux and that the Chippewas all owned it in common. One band sold a little, and then another band sold some, when all should have joined in the cessions, and this produced injustice and inequality of division, so the Great Father last winter decided that you all had an interest in the Indian lands in Minnesota, and that your interests should hereafter all be united. That is the reason that we first went to Red Lake, as they own a reservation very much larger than your's, three or four times. You who own a small reservation, the most of it you will keep in your allotments, will get as much as those who have large reservations.

The Chippewas of the Mississippi put in a large reservation here and do not take a foot of it in allotments, beside giving four townships at White Earth containing pine.

The great council arranged this so as to correct whatever injustice had been done. Then to help you along until you should receive money from the sale of the pine, the Great Father appropriated $90,000, which is now in the Treasury, to be given to you, not only now, but to be continued year after year until you shall receive a greater sum. It has been customary to give you so much money for so much land, whether it was much or little, but now the land is sold for you and you get every dollar it brings. And instead of leaving you to settle your own disputes among yourselves, and which are seldom ended in that way without disaster, the law will settle them as it does with white people. If one Indian injures another in person or property he will be punished precisely the same way he will be if he injures a white man; exactly as the Government punishes a white man for doing any injury to another.

When you have taken your allotments you will have much more land than the white man receives. He only gets 160 acres, while here the head of a family gets that and the children and other persons who are of age also get land. Any mistakes under former treaties, those old matters, can not be brought up here. The damages caused by and the land taken for the reservoirs are not matters which are covered out of sight by this arrangement, but are still alive.

WAY-GE-MAH-WISH-KUNG. We have all kinds of stories here. There was a surveyor at work in this section of the country, and he told me that he was going to Mississippi. He said the Great Father did not own any land there, but it is 3 miles back from where the Mississippi empties into this lake. There are a great many whites north of Winnebagoshish. The whites have stopped at the third river from Leech Lake, and not know exactly where the lines are. We wish an adjournment now, and will meet you to-morrow.

Council adjourned.

SECOND COUNCIL AT CASS LAKE

AUGUST 24, 1889.

WAY-GE-MAH-WISH-KUNG. There are many here who are ignorant of this transaction, and we can not make them understand fully the purport of your visit.

Mr. Rice then repeated the full and complete explanation of the propositions made the day before.

WAY-GE-MAH-WISH-KUNG. I wish to ask about the request made by the Pillager Indians while I was there in reference to the money obtained from the dam matters. The Indians made a request that they should receive the whole amount to enable them at once to purchase cattle. How was that decided?

Mr. RICE. We put it down in the paper just as they said it.

WAY-GE-MAH-WISH-KUNG. We wish it understood that the requests of the Pillagers about the dams are our requests also.

I wish to state that our young men do not tie us up as the chiefs at Leech Lake are tied. We are a little more free here.

The same thing that troubled the minds of the Indians at Leech Lake relative to the dam money and about the land at Leaf River, and the demand they made to have the account of the utility fund investigated—all these things are on our minds also.

At the time of the Northwest Commission I did not like the arrangement, but on account of the agent's persistence, after he had been after me three times, they got me to sign it. As you have referred to the old treaty, I will tell you what I said at that time: "I sign that agreement just because I am urged to sign it; it is not because I like it. I do not like the agreement; you do not give us anything in our hands for signing that agreement, but I will sign it, as you urge me to sign it." We were waiting for a young man who said he would be present when this arrangement was made.

Mr. RICE. We have not come to urge any of you to sign, but to tell you all there is in the proposition, and then to leave it optional with you to accept it or not. You have been left alone, without a mill, a Government farmer, or a carpenter; so far as I can see nothing has been done for you.

This country will not be filled up as the country south will be, because it is not as good for agriculture. If this is carried
398 out, you will not be confined to your reservation, but your young men will be able to go where they like, as the white man does, provided they behave themselves. Your Great Father has never objected to your hunting through this country, and will not so long as you do no wrong. Knowing you as long as I have, if I had not known it was the best thing you could do I should not have come. But it is a very important thing, and I hope you have considered it well.

Commissioner WHITING. My old friend (Way-ge-mah-wish-kung), I want to get it fully into your mind that by taking this $90,000, of which you will have your share, you will not interfere with the money that your Great Father owes you. Your Great Father admits that he owes you that, and he will pay it. The reason he has not paid it is because he did not know what you were going to do.

NAY-TAH-WE-GAH-BOW. When the Indian is allowed to go anywhere, will that permission last forever?

Mr. RICE. Yes. If you misbehave, you are subject to the same punishment as the white man is; and if anyone disturbs your persons or your property, whether he is an Indian or a white man, he is subject to the same penalty. If one of your young men should work for a white man—there will be a great deal of work to do—and the white man refuses to pay him, the law will compel him to do so.

TOM-BAY. All the Chippewa Indians in this section of country appear to be blind to anything that the whites say that is worth under-

standing. It seems to me as though they did not wish to understand. The Indian can not be blamed because his perception is not great. What they have in their minds is the old transactions and as to what the Government owes them on that account. We hope you will be patient with them.

Mr. RICE. Your Great Father told us to be patient with you and to explain everything. We hope that by day after to-morrow at 9 o'clock you will understand it and be ready to give an answer.

Commissioner WHITING. Will 9 o'clock Monday morning suit them? If so, will you please be prompt?

Council then adjourned until August 26.

THIRD COUNCIL AT CASS LAKE

AUGUST 26, 1889.

SONG-GE-GE-SHIG. These young men do not thoroughly understand this and ask that you may be pleased to explain matters to them. We will then retire and consult among ourselves, and we are at liberty to do every man as he wishes.

Mr. Rice then repeated at length the explanations already made twice before.

SONG-GE-GE-SHIG. I am very much pleased to hear the same thing here which was said at Leech Lake. I do not know what action the young men may take, but for my part I do not intend to oppose this matter in the least. Will you please adjourn to give us time to discuss the matter?

Council then adjourned until 2 o'clock, when it again convened.

SONG-GE-GE-SHIG. My action will be witnessed by the Master of Life to-day. I am the poorest of what is called the Indian race. If it pleases the Master of Life to have pity on me, the Great Father will have pity on me also. I accept your act fully; and if through your efforts my Great Father takes pity on me, I shall be very glad. I do not wish to influence anyone by my action, but I take this step that others may follow my example if they should see fit. I wish you to progress with the signing.

Song-ge-ge-shig then touched the pen.

NAY-TAB-WE-GAH-BOW. You have heard our chief here, and the expression he has uttered. He has put forth his hand and touched the pen. What he has put before the commissioners he has had in his mind for a long time and never let us know what his mind was, but now he has set it before you.

I know very well that the task imposed upon the commissioners and the load that the Great Father insisted you should carry through this country has been a heavy and tedious one. You have been lightening your load ever since you visited the several reservations, and you have now come around to this one. We hope you will drop a portion of that load here, and we will help you to lighten it. I call on the Master of Life to witness my feeling and to witness that I do this of my own free will and think it will be of great advantage

to myself and tribe. My friend (Mr. Rice) I wish you to hand the pen to me.

He then touched the pen.

TOM BAY. What our chiefs have said has expressed my opinion as well as the opinion of others. I wish to state my convictions before I touch the pen. I am one who calls upon the Master of Life, because I try to follow the mandates that He taught, and I hope that He will have pity on me and that this arrangement will go through, as I know it will be beneficial to me, and I hope that this contains nothing which will not be carried out.

He then touched the pen.

399 WAY-GE-MAH-WISH-KUNG. My friends, I shall touch the pen again. The last time I touched the pen it made me ashamed. I suppose that the man who urged me to do so before had the same shame that I had, and the shame ought not to be on me, but on him. I thought then, after I failed to see the fulfillment of that agreement, that I would never touch the pen again until I had seen the fulfillment of it, but the way you have explained to the Indians leaves no doubt that they will receive the benefits, because they know it is true. If this act is not carried out according to its provisions I should be very much disappointed and we shall have to bow down our heads again.

Commissioner WHITING. And we ours.

WAY-GE-MAH-WISH-KUNG. I am getting to be an old man and it is hard work to support myself. It is my poverty that makes me so brave as to talk with such men as you are. I used to support myself very well without begging while I was in shape to do so, but since I have become lame it is impossible for me to work.

He then touched the pen, after which the Indians came forward, one at a time, and signed the agreement.

ME-ZHAH-GAH-MAY-GE-SHIG. My friend, I heard your words and I understand everything that you have told me. My friend, we are very much obliged to you. I thank you very much. You see that our boys are signing. I am holding back toward the last, but I am going to sign, too. Your words went right to my heart and understanding. I shall hold my children to this, too—a thing that many of the Cass Lakers do not like to do. That is all I am going to say to you, but after this we will call ourselves friends. I salute you all [shaking hands].

SONG-GE-GE-SHIG. What I wish to say now, my friend, is that it would not please me very much that I should not be owner of the pine; that I should give up all my right to it. Would the commission be pleased to set off a number of acres that would do for the future use of this reservation? And if we could get a mill we should be very much delighted with it.

I should also like to follow the example of the Pillagers of Leech Lake; that is, to set apart a piece of land for the same purposes they did, for a village, for government purposes, etc. I should like to have a paper showing our request about the piece of pine,

made of our Great Father, so that if anything should turn up they could not go back on us.

I should be very glad if I did not have to wait three years for the fulfillment of this promise, the payment of the money. We hope that you will take hold of it immediately and use your influence, you and your friend here, Commissioner Whiting, to bring about that payment as soon as you can.

Mr. RICE. We have consulted together and agreed that we will do what we can for the first three objects—the mill, setting apart some pine, and also for the village—and we will give you a paper also to that effect.

In regard to the money, that is already appropriated, and if they do not detain us too long at the different reservations we have to visit, we hope to obtain it this fall. At any rate, you will not have to wait three years.

Commissioner WHITING. The sooner we get around from one band to another the sooner will we get our work to the Great Father for his approval.

NAY-TAH-WE-GAH-BOW. My friend [Mr. Rice], you have under any circumstances, whenever you have been called upon by the Chippewas, stood by them, and you are now with them. There are a great many requests made that might seem to some unreasonable, but you will be able to judge that the future is a long one for us. You have come into the Chippewa country, right into the midst of your friends. The Chippewas are very much pleased to see you, because they know that you have been their life-long friend.

Now, I wish to lay a matter before you, on account of your wisdom and foresight. You know very well that this is the poorest place on all the several reservations, and the Chippewas here are poorer than on any others. Our children are so poor here that they are next to rolling in the ashes. We wish that you and your friend here should try and get a blacksmith for us in time, so when there is any implement of agriculture broken we may have it repaired.

Another thing we need is a mill, which is very essential for us. The Indians here must stand on a different footing than they have occupied before. There is nothing here that an Indian can use, not even a jack-plane to smooth his board. There is nothing of that kind. If we should ever have a mill we should have a planing machine, because it makes boards look pretty.

I wish to know of the agent whether we will get our annuities kind. If we should ever have a mill we should have a planing

B. P. SHULER. I have made requisition for all back payments.

The council then adjourned.

AUGUST 31, 1889.

The Indians came in late in the afternoon and expressed a desire for an informal council that evening. A council continuing several

hours was therefore held that evening by the light of the camp-fire, at which the act of Congress under which the commission proceeded was fully explained in every part, as well as the act passed February 8, 1887.

For want of a building all councils here were held in the open air.

SECOND COUNCIL AT LAKE WINNEBAGOSHISH

SEPTEMBER 2, 1889.

Mr. RICE. The council is now open for business. We have already explained everything to you fully, but if you do not understand all that was said, let us know and we will go through it again. We will be very glad to hear everything you may say. Here is a man who takes down every word.

SHO-KAH-GE-SHIG. I want to know if you have told us everything.

Mr. RICE. We told you all about the arrangement. If there is any point you do not understand you may tell me and I will explain further.

SHO-KAH-GE-SHIG. Although it has been explained very thoroughly, if I should say that I understood it all thoroughly I should be uttering an untruth. I should be very much obliged to the commission if you should be pleased to explain again just the arrangement itself, without any outside matters.

Mr. Rice then made another full explanation of the acts of Congress.

Commissioner WHITING. I want to impress this upon these people: That while the old treaty compelled them to go to White Earth, this one that we offer leaves it to their choice—those can go who wish, and those can stay who do not wish to go.

Now, White Earth is a beautiful place. If any of you wish to leave here, there is no finer place to go to than White Earth. More time has been spent in making this paper we bring than any paper ever sent you; the reason of this is that the Great Father has seen that your condition is becoming worse and worse each year; that your game was driven from your forests because the woods were being destroyed by fire. With your game gone, nothing is left for you to subsist upon but the fish in the lakes, and no nation, no people, can live and raise their children successfully on fish alone. It is not possible. And so your friends, not only in the Great Council, but your friends elsewhere, saw the absolute necessity of doing something which would relieve you and settle the question of your location forever. There are a great many men who care nothing for you and who would rather you should turn your faces away from this treaty. They desire the opportunity of going to the Great Father and to the Great Council and saying that you do not want anything done for you; and so your friends are anxious that you should listen and do the best thing that is possible for yourselves. It would have been easy for this commission, when you refused to come in at the notification, to have gone on and reported to the

Great Father that you had turned away your faces from him forever. That would have been a very great mistake on your part. This fast friend of yours whom you see before you, and of whom you have all heard, said, when it was thought strange that you did not come in, "But their minds have been poisoned by their enemies."

Under our instructions from the Great Father we were to have all patience with you. Your Great Father and your friends—your real friends—everywhere are desirous that you should become like white men, not like the bad white men of whom you see the most, but like the good citizens whom you will know more about if you adopt this plan.

This arrangement is not so important to the old men of your nation as it is to the younger ones. It is important to you because the remainder of your lives will be happier and better if you adopt it. The lives of many of you, like ours, are behind you, and the work must fall upon the young men, as you have been told, and to them will come the greatest good. You will be a very rich people in the future, at a time not very far off, but riches won't make you happy, and will not stay with you unless you are a sober, temperate, and industrious people. Whisky ruins every white man who indulges in it. Idleness also ruins many a white man. But if you adopt habits of sobriety and industry all will be well with you. That is all.

Mr. RICE. We will be glad to listen to anything you may have to say.

SHO-KAH-GE-SHIG (after addressing the Indians). I have finished addressing my people, and turn my face toward you. My friends, I am going to shake hands with you. My friends, those of us who are called the Winnebagoshish Indians are certainly very poor. We never had any chance for any big talk in this place. We generally are sitting pretty quiet. I always think I should like to know what the result will be. After hearing all the talk and the councils
401 and everything of that kind that they have had at the other places amongst our friends, the Pillagers, I do not want to talk disparagingly of any person, but I wish to tell you the truth. We never have been benefited a single iota by any of the councils held by the Pillagers, although we belong to the same interest. Who is to blame? I am called an Indian of the Winnebagoshish Band, and I speak for the band, and as a band we do not see a single instance of misdemeanor of which we are guilty against the Government.

At the time this dam was about to be built, the one you see now constructed, the man who came here first to talk about getting our consent used these words: "I beg of you under no circumstances to molest anybody who is working at these dams, and always respect the authority under which they are built." Those are the words used. "You can not help yourself. This is a Government concern, and that dam is going to be built in spite of anything you can say, because it is for the purposes of commerce, and Congress

has ordered it to be built." They told me, "You may object as much as you please, you may protest against it, but it will avail you nothing," and that man who is interpreting (Paul H. Beaulieu) put that in the strongest possible way. I have been blamed, and it was said that I was bribed to allow this dam to be built. There is not an Indian who ever said so but he uttered an untruth when he says I was bribed.

And then the first man, the first engineer, who came here, under whose charge the works were, they called him the Captain (Captain Wanzer); that man spoke in the very same words that had been spoken before. Captain Wanzer told me, "My friend, I want you to listen to what I shall say. Do not let anybody molest that dam, but instead, protect it." We have respected this work of the Government in spite of all the other councilings we have heard.

You can see with what patience we allowed this dam to be built. Just look around this lake. There are no persons who have been so badly damaged. Look around here. It is not fire that makes it look so barren around the lake. It is the effects of the water caused by the overflow. That is the very reason that I say that as a band we here at Winnebagoshish have respected in every particular the words of the Government, and have obeyed the mandates of the officers who told us to respect that property.

I am just telling you that to show that it was no disrespect to the Government that we did not come in here at the first time you notified us. My friends, you told us yesterday that you were glad to meet us. We certainly are very glad to meet you also. Although I did not have my own way about meeting you at the time we should have been here, I felt very uneasy about it.

Whenever a man comes and makes a good offer to me, and stretches his hand to me, I do not take that hand and push it aside, but whenever I can not see through anything I do not wish to push myself ahead and do a thing that I do not fully understand. My friends, I suppose that you understand me. That is about all I have to say. Especially the last word that I said to you. My friend, I have expressed to you my feeling. After a while I have something more to say to you.

MAY-QUOM-ME-WOUB. I shake hands with you all. What my chief says meets my views; that is exactly what I think also.

I wish to talk about the dam. When that was erected here I entertained the same views that my friend did. I understood the whole thing relative to the dam, and under what authority it was erected. They told me there is a great deal of work to be done. "Now, you just put forth your energy and obtain work here, and you will get work whenever there is a chance." They told me they would never shut the gates for good. That they would leave the water to run pretty freely until the whole thing had been settled for. We have been waiting very patiently for the payment of the damages done to us, and it has been a great damage that has been done to us. Now, we should like to hear from you at what time you expect that will be paid.

Now, about our meeting here. We beg that the commission should take into consideration that this is the only subsistence (meaning wild rice) and the only chance we have of making a living for the winter. This is our stock, and if we did not obey the mandate, all the stories we heard had nothing to do with our saving what we needed for our winter's subsistence. We wish to impress upon the commission that it was not contrariness. Almighty God has provided for all His creatures. He has provided that kind of subsistence for the Indians. If they do not take it in time they must go without it. That is the excuse, and we hope that you will accept it. That is the feeling of the people.

Mr. RICE. We were so glad to see you that we forgot all about anything unpleasant that had occurred, so you need not fear that we are displeased. We did not send for you to meet us at Leech Lake, Cass Lake, or Cormorant Point. We did not wish to confuse things; we came here upon your own ground, and it is the first commission that ever did it.

We know the patience you have exhibited in regard to the building of the dam. We know the damages you have sustained, and we know you have been very patient in waiting so long for remuneration.

402 MON-ZO-MO. My friends, it was through my suggestion that the men you sent last waited there over a day. I did not think I was a very bad man because I made that demand from your messenger.

Commissioner WHITING. My friends, we appreciate how very difficult it was for you to leave your rice-making and we are very sorry to have interfered with it, but are glad that you came down to see us. We are anxious to have you return to your rice fields as we know how important the rice is to you.

AFTERNOON SESSION

SHO-KAH-GE-SHIG. I wish to ask a favor; that the commission stay with us until to-morrow morning. Otherwise we may forget something, and it is better to meditate longer.

I am ready now to proceed to business. I am going to talk over other matters after we get through. Every man is left to his own free will in this matter. We are going to begin, and those who are ready to sign can do so, and with those who do not wish to sign it is optional. It is better to begin now, so we may know who feels like signing.

Mr. RICE. It is very hard to refuse anything. We wish to gratify you as far as we can, but you know very well that we have engagements ahead. We will stay to-night, and hope you will try to finish. After you are through signing we will listen to all you may say.

SHO-KAH-GE-SHIG. I sign for the Great Father, and I wish to have it understood that I accept this wholly and totally in accordance with your explanations. I wish that what the Northwest Commission did shall be thrown aside and buried. Will it be so?

Mr. RICE. It will be.

MON-ZE-MO. What this chief has just said is exactly my views. I shall express what the people here think. Look at the past and the many things promised which looked very big. Is there any room to doubt that whatever has been said to us will be fulfilled, as the other treaties we have made, and which we doubted, were not? Is there any doubt that this will be carried?

Mr. RICE. There is no doubt about this. The other treaties have gone through the Great Council. This goes back to the Great Father, and if he approves of it, you will know it in time.

In regard to the reservoir dams, we wish you to distinctly understand that that is not written in this paper. You only have our opinion and our word to do all that we possibly can to help you through with it. About your having your homes here and your farming lands and your getting the money, of that there is no doubt or question. Is that satisfactory?

We espect to come here again, but we know that the Master of Life sees us here now in the open air, and we have not said or done anything which has been intended to deceive you. Did your fathers ever tell you that I deceived them?

MON-ZE-MO. Never. (He then touched the pen.)

Mr. RICE. You can go to work as soon as you please selecting your allotments. When the land is surveyed, the lines of your selected lands will have to conform to the Government lines, and you may have to move a little one side or the other.

O-NAH-NAH-GA-GE-SHIG. All that I have waited for is the action of my brothers here who have signed. Now I am ready to follow their example. The chiefs here have some requests to make, and I wish that you would use your influence to have granted any reasonable request they may make.

He then touched the pen, and the other Indians, one at a time, came forward and followed his example.

SHO-KAH-GE-SHIG. There is a man who has done us the greatest service ever done to us as a tribe. When we were isolated, and the sickness (small-pox) was bringing death among us, there was a white man who was brave enough to come here and save us—a physician. That man was at Leech Lake, a doctor there, and he was a noted doctor. He has done all that he could for the Indians in this country, and if you want to please the Indians, try to get him there to oversee; you will have a man who is worth having. It is in remembrance of the services that he rendered that we say this. He was a great deal more than a friend to us, especially to me.

(It was learned that the gentleman referred to was Dr. James R. Walker, now residing at Excelsior, Minn.)

Agent SHULER. The Interior Department reserves the right to appoint all the doctors on the reservations, so that is not within my control. I know your friend very well, and, so far as I am concerned, I should be very glad to get him back here, because I know he is a

good man. I know that Doctor Walker never got a cent for the time spent here.

403 I-AUB-AINCE. I think that the requests made by the other Indians were absolutely necessary, and we wish here to make the same. It is very essential at this time that there should be understood by the Government and its commissioners the fact that a piece of pine land should be retained for our use, so that we shall not be compelled to buy our pine from others.

And the time will come when it will be necessary to have a carpenter and the proper tools. We will need them. There is another artisan whose services are always required, and when you have a long way to go to have blacksmithing done it is a great detriment to us. That is a thing we would very much like to have, a blacksmith. We wish to be treated as the other bands are in regard to the demands they have made of you.

Mr. RICE. Your words are all taken down, and your wishes will be reported.

MON-ZE-MO. There is one thing we have on our minds which is very essential. If that road is built we should like very much to receive our annuities by that road, instead of going a long distance. We wish to impress that upon your minds, because it will save us a great deal of trouble.

Mr. RICE. The request is reasonable, and I am glad the agent is here, as he is the one to appeal to.

AY-WUS-E-GE-SHIG. The annuity payments we receive are made so late that we have to start across this big lake in storms, and the young and the old have to go, and many perish in the cold. The aged, who can not go there on account of the cold; the women who have children but no husbands, and the sick, and the children, who can not be left behind because there is no one else to care for them, all these have to be present at the pay table or else they get nothing from it, and immense suffering exists from it all winter. Sometimes we represent that one of these persons on the roll is an invalid and can not get there, but our words are not listened to. Another year goes by, and that name is pronounced dead. What killed it? It is the cold and suffering; for lack of something warm. That annuity is asked for, and we can not get it, but it goes back into the Treasury of the United States Government.

Major Shuler, the Indian agent, informed the Indians that he was endeavoring to have the next payment made in October.

I-AUB-AINCE. A great many of these young men have lost gardens by this overflow and have asked me to speak for them. A great deal of labor and expense have been expended making those gardens, and we wish those damages paid, aside from the general damages paid. At one time there was an offer made to the persons who had suffered in having their gardens destroyed by the overflow, and I advised them to accept it, but Sturgeon Man and the Hole-in-the-day murderer advised us not to accept it, saying that in time we would get a great deal more. I thought at the time they would bring it about.

but I was very sadly mistaken, and I begin to find out that those two men don't amount to anything. There is a certain amount of money which will be paid pro rata on account of the damages done by the overflow, and some will be paid who have not an inch of cultivated land; they will receive as much as those who have farms destroyed. We think those who have lost farms ought to get something extra for the amount of their personal damage. That is, that there should be one general fund, and others to cover the damages of particular persons.

Mr. RICE. You are right.

SHO-KAH-GE-SHIG. Do the men who sign, sign for the women and the children?

Mr. RICE. Yes, sir; and the women and the children get their shares of the land and money.

Council then adjourned, and in the evening the Indians appeared for another session, which was held by the light of the camp fire.

I-AUB-AINCE. The Simpson Commission promised that these graves and cemeteries should be all removed at the Government's expense to some higher ground where they had been washed out by the raising of the waters caused by the dams. The Indians here and at Leech Lake and at Raven's Point were promised the same thing, and the Northwest Commission solemnly made the same promises. The Northwest Commission examined the graves in three places and saw the bones sticking out of the ground where they had been washed out by the waves. The Indians who had fathers and mothers and children buried there were very much pleased to hear the Simpson Commission speak as they did. They made a promise to the Indians that they would certainly see that these coffins were taken up and buried on high ground decently. It pleased every Indian who had any dead relatives. But the promise was all we ever saw of it. I do not think the Blakeley Commission made any promises.

(The interpreter stated that he could substantiate what had been said by the Indians regarding the promises made by the Simpson and the Northwest Commissions.)

I-AUB-AINCE (continuing). There is no one who knows the number of graves in this condition, but there is a large number. The covering of the graves and the coffins have in large numbers drifted out onto the waters of the lake. The cemeteries are now just as level as this ground here—nothing to show what was there. This was
404 at the mouth of Third River and at the mouth of Cut-foot Sioux River, and also right alongside of the Mississippi River here. They wanted William Fairbanks to take the job of removing these graves, but were first to use their influence to have the work done and paid for by the Government.

We bring this to your notice, as we would like to have action taken in the matter, although I don't think it would be of any use now, as the bones are all scattered; the skulls are here and there all along the shore.

The commissioners promised to make known all that they had about the cemeteries.

Mountain Traveller, head chief of the Bois Forts Indians, who was present, and to whom the commission explained everything connected with the propositions made, and who was well pleased, took his leave, after which the council adjourned.

FIRST COUNCIL WITH WHITE OAK POINT INDIANS

PAYMENT POINT, *September 4, 1889.*

The councils here were held in the open air, there being no settlement of any kind at the place.

Mr. Rice made an extended explanation of the act of Congress under which the commission acted, and also of what is known as the Dawes Act, passed February 8, 1887, after which the council adjourned until the afternoon.

Council convened in the afternoon.

WAY-ME-TIG-OZHENCE. I am perfectly ignorant of anything that has been said heretofore. I have been tampered with so often that when a white man says anything to me I don't know what to believe.

Mr. Rice then repeated the explanations already made, as many had come in since the morning council.

Commissioner WHITING. You must remember that it will take a little time to bring about this matter, and for you to take your allotments. The White Earth Indians could do it as soon as they signed the agreement, because their land was already surveyed.

This proposition we bring to you is important to the old men even, but it is vastly more important to the young men. If you accept this proposition, and your young men take hold of it and do the best they can, in a few years they will be the richest farmers in the State of Minnesota. Of course, this proposition, valuable as it is, will be worth nothing to you unless you take hold of it in earnest and do the best you can. No people can prosper, however much may be given them, unless they are industrious, saving, and sober.

Mr. RICE. The Catholics have been waiting a long time for you to become settled so that they may place among you churches and schools, as they have resolved to do with the bands who have accepted the propositions, and as they are now doing at Red Lake and White Earth.

[Mr. Rice then read a letter from Bishop Marty, and continued:] Before we left Leech Lake he gave orders to have a church built there. It will not only give work to the young men but will give you assistance in other ways. The women and children will be able to get good advice. Now we wait for you to speak.

WAY-ME-TIG-OZHENCE. All the Chippewas of the Mississippi have been notified to treat any commission from Washington with respect. They have always complied with the requests of the Gov-

ernment. It is not such men as you who would come before them and talk bad to us. I wish my friends to know what I think. I accept the propositions. My father, who is your [Mr. Rice's] friend, told me, "My son, I want you to leave your bones at the same place that I leave mine." I don't want to go over there [White Earth]. I do not know the ideas of my fellow Indians, but so far as I am concerned I have lived here for seventeen years and I accept the propositions. You can see by my age that I am not very long for this life. If the young men will follow my advice and the advice you give them, they will certainly be benefited by what you have told them. That is all I have to say.

Mr. RICE. Is it your desire to sign now? I know you are in a hurry to get to your rice making.

WAY-ME-TIG-OZHENCE. Yes, sir. I am independent. Nobody owns me and I own nobody.

KA-WAY-DIN (after addressing the Indians). I have lived here as long as the last man who spoke, and I am only one of a large number who have. I have listened to you a long time at Leech Lake, standing by you, so I can remember and understand what has been said. I was there ten days, and although I heard all your talk I did not take hold of your propositions immediately.

405 What was promised to me in that section of country I have never seen. Just the same over there at White Earth; they have got the land that was promised to them, and I have got the land that was promised to me yet. You borrowed an office there when you were at Leech Lake, and now you are talking to the Indians here in the open air.

There was a promise made to the Indians here at White Oak Point that there should be a schoolhouse, and if it had been here you could have talked in that schoolhouse. There was a mill promised for this place, too, but we never saw it.

They told us that whenever the whites wanted to saw anything we could allow them to saw their lumber in the mill and that the whites would pay us. And there was cattle promised to us then, and now the same promise is repeated. You say the truth when you say that these Indians are poor. You see the rents in my nails; if I wanted to hold something I could not do it because my finger nails are torn. If the cattle had not died on the road that were promised us in the name of the Great Father, maybe our young men would be able to use those cattle in their work.

That is the reason I speak to you in behalf of my friends here, not to sign until we have made up our minds to sign. I want to hear what the others have to say. I have heard only him who was willing to accept this; I have not heard any of the others. That is all I have to say.

Mr. RICE. It is for each of you to decide for himself. If you do not wish to sign, we do not wish to have you. Those who wish to can do so, and those who do not want to need not. That is what our Great Father told us to say to you.

KA-WAY-DIN. We want to see each other again. There are a good many who will accept it, but they want to talk.

Paul H. Beaulieu, interpreter to the commission, then addressed the Indians in Chippewa.

ME-TE-GWAH-TICK. I will meet the commission at White Oak Point, down the river, and give my signature there.

The Indians counseled among themselves for about half an hour and then returned to the commissioners.

KA-WAY-DIN. This is not my own idea. I am selected by this band to express what they wish. The Indians are pretty well scattered, and they wish you would indulge them for a few days. They wish to meet you all at White Oak Point, where they expect to see the Sandy Lake Indians, and when we can talk over matters with you.

Mr. RICE. We sent messengers to you to meet us at this point. We will not wait for you there that length of time. We told Drum-Beater we would wait for him there one day, which we propose to do, but our time is precious, and as your rice crop is about completed, I do not see why you should wish to detain us. If you have anything to say, we will listen and enlighten you, but we will not wait for you three days, as requested, because we see that it would be a waste of time.

The council then adjourned until evening, when it again met around the camp-fire.

NO-KAY. I spoke to you [Mr. Rice] at one time in St. Paul. I suppose there are a great many who have not signed. I said that if they all signed, I should sign also. I wish them to begin to sign. I don't want to be removed eleswhere. I want to stay here. My children's land extends to here. I want to listen to what the others will say.

Ka-way-din then addressed the Indians in Chippewa.

After considerable hesitation nearly all the chiefs and other men signed.

Sturgeon Man and other Pillagers, who had not signed the agreement while the commissioners were at Leech Lake, but who had been the strongest opponents of the agreement at that place, followed the commissioners to White Oak Point, and requested an interview with them there, September 6, 1889, in which Sturgeon Man said he would return to Leech Lake and use his influence to have his people a unit. He signed the agreement and expressed his regreat that any misunderstanding had arisen at Leech Lake.

SECOND COUNCIL WITH WHITE OAK POINT INDIANS

WHITE OAK POINT, *September 6, 1889.*

This council was held at night.

KA-WAY-DIN. My friend, I shall express to you my feelings. I am going to tell what I wish of you, and the reason that we touched the pen and gave our consent to this arrangement.

I wish to refer to arrangements made with our ancestors in times past. You [Mr. Rice] were witness to those arrangements. I wish to know about what the White Earth Indians have done relative to the arrearage fund that pertains to the Chippewas of the Mississippi, and also to the Chippewas of Lake Superior. Have the White Earth Indians used any of those funds?

Mr. RICE. None of the money has been used. All that Congress has to do is to make the appropriation. It has been allowed by the Indian Office.

When we were at White Earth we talked the matter over and agreed to do what we could do for them as soon as they were
406 permanently located. Your Great Father is opposed to giving you large sums of money until you are settled, as he knows the money will otherwise do you no good. We are in hopes now to get it appropriated very soon, and will do what we can to get it this winter. We have been detained so long and have such a long journey before us that we can not promise what we will do. We have been at work nearly three months, and ought to have been not half as long.

KA-WAY-DIN. A great many here have not been told about the object of your mission. If you explain it this evening we will all understand it.

Mr. Rice then made an extended commentary and explanation of the act of Congress under which the commission proceeded.

ME-TIG-GWAH-KICK. We wish to ask you this question: At what time do you suppose we will begin to receive what our Great Father will lend us, and at what time do you suppose that any arrangements could be made so that we could hear about the damages caused by the reservoirs?

Mr. RICE. The $90,000 is already appropriated, and the other money we hope to have for you soon, but we have been kept so long that we can not tell. In regard to your payments, that is for your agent, as he pays you. Railroads are now being built all around you, so that it will be an easy matter to pay you; but as to this he can speak.

As to the damages by the reservoirs, we have promised the Pillagers, and promise you also, to do what we can to have them paid as soon as possible.

ME-TIG-GWAH-KICK. Tell us about the census rolls. We wish that there should be no discrimination made relative to the persons who have a perfect right here, that they should all participate in this arrangement. We do not wish any one who has no right to be invited, but we wish all those who have to participate.

We have tried very hard to keep our rolls intact, so they would be correct. There are a great many who were not present.

Commissioner WHITING. But why have your people not come in?

ME-TIG-GWAH-KICK. I do not know; I am just making this remark. It was dark when I got here; they may have arrived.

There are some children who are not put on the rolls, from what I have heard. There are some who were forgotten.

Mr. RICE. We have been very particular about it, but if there are any who have been forgotten we want to put them on. When will you look over the rolls, to-night?

ME-TIG-GWAH-KICK. Yes, sir; after this talk. That was one of the points that I wished to understand about. This is the request that we make of the Government—that our annuities be paid here at this place.

I also speak for the people here when I say that the White Earth Indians have made a preparation for getting something to work the land with. The whites know that we are very poor and that we can not progress without assistance. We request that the Government furnish us some cattle immediately, if it is possible, and also agricultural implements, so we can have something to work with on the start. This reservation is very small, but when we get our annuities paid here we will have our homes here, although is it small.

We do not wish to have our houses very far from each other. We wish to make a place, a kind of village, in some locality which will not make any difference in our working on our allotments. Then for the purpose of building houses and schools, what shall we use to saw the lumber with? We should also like to be furnished with a mill. We understand very well that we must not take any pine lands—it is just like putting a lock on the pine lands—but we certainly want something to make our houses, and we wish the commission would provide for that when it makes our allotments. About the protection of the law: Are you going to put a man over use here to take care of us and execute that law, or shall we have to do it ourselves?

As there are a great many here who are favorable to the Catholic Church, we should like to have a priest to stay amongst us, and to have him selected as a school-teacher.

Mr. RICE. You heard Bishop Marty's letter read yesterday. The Catholics are now coming in among all the people. In regard to your traders, the railroads will soon be here, and where they are there will always be traders, and you will then get your goods much cheaper. You will have enough of them.

If any one disturbs you in your person or property, report it to the agent. You will find he has a long arm to reach offenders. Your other requests we think reasonable, and will send them to the Great Father.

If our lives are spared we expect to come here again and see that everything is carried out properly.

Commissioner WHITING. Every day more spent here now puts off the consummation of your business so much longer. We have a great deal more to do before we can get this matter before the Great Father for his approval.

The census roll was then read to the Indians present, and those who had not signed at Payment Point signed the agreement this evening.

407 THIRD COUNCIL WITH WHITE OAK POINT INDIANS

NEAR GRAND RAPIDS, *September 7, 1889.*

This was a council held with the Indians of Trout Lake, who had been summoned by messengers.

Mr. Rice made a full explanation of the agreement, whereupon the Indians present signed it, after which the census roll was read to them.

GO-GISS. I am older than the other men here, and that is what brought me here. I have always heard the chiefs talk about the amount due us for arrearages.

Mr. RICE. You have been in an unsettled state for years. The amount due you in the arrearages matter was ascertained some years ago, and we propose to do what we can to have it paid to you.

The matter of the damages done by the reservoirs was also asked about, and Mr. Rice explained that efforts would be made during the coming winter to have that matter settled. The Indians claimed that the overflow caused by the reservoirs had killed all their rice and destroyed their hay meadows.

GO-GISS. I am very glad to hear you speak about the arrearages fund. You know that we are to receive one-third of the amount. We were given to understand by our fathers that there was quite a little fund there. The matter has been so satisfactorily explained by you that we will ask no questions.

Mr. RICE. Your fathers and I understood it in the beginning.

Commissioner WHITING. I do not think you should feel anxious about the arrearage fund or the reservoir damages. If your Great Father finds that you are anxious to have land of your own and to cultivate it, he will be all the more anxious to see that you have what is due to you.

Council then adjourned.

The commission then proceeded down the river, expecting to meet a number of White Oak Point Indians who had been notified by messengers to assemble at Sandy Lake. On landing a messenger sent by them said they were busy gathering wild rice, and as but a few days remained before the wind would blow it away, owing to its ripeness, they could not meet us.

We sent our messengers in various directions asking the Indians to meet us at Kimberly, a point on the Northern Pacific Railroad, and the most central and convenient, as the Indians were scattered in every direction for many miles around, and as to the numbers and whereabouts of many of whom we had no information.

FOURTH COUNCIL WITH WHITE OAK POINT INDIANS

KIMBERLY, MINN., *September 19, 1889.*

Commissioner Whiting performed the duties of acting secretary. This band, called "Sandy Lake Band," is a part of the White Oak Point Reservation band. They are very much scattered, and it has required many messengers to get them in. Only a part had come in when we arrived. Other messengers were immediately dispatched. A council was held this evening with the Indians present, and the situation explained to them. All councils here were held in the open air.

SEPTEMBER 21, 1889.

This was the first formal council held here. Indians or their representatives nearly all in. Full explanations were made to the Indians in answer to the inquiries.

O-GE-MAH-WOUB. We expect our women. At White Earth they had seats. Here we have to sit on the ground. Our men are not all here, so we want our women to hear. In the meantime we will have further explanations.

Mr. RICE. The Great Father wishes to know what you desire to do. He is determined that you should not live longer as you have done. This must be manifest to you. You can not subsist in the old way. White men are crowding you on every side and are making every effort to have the Great Father remove you.

Commission further explained the provisions and requirements of the act, telling the Indians that "the Great Father wishes to know your decision now. And we will convey it to him for his action. If we have failed to explain anything you are at liberty to ask any questions and we will patiently answer all. This is the most important event in your lives, especially to your young men. We wish you to make no mistake."

O-GE-MAH-WOUB. What about taking allotments on Government lands outside of any reservation?

The Indian preemption act was explained.

QWOD-AINCE. I went to White Earth while the commission was there. Sat next seat to Wob-on-ah-quod. We were near the commission. I remember every word you said to the Indians there. I remember all that was said by the Indians; all their questions and your answers. I am not a foolish man, but I will ask ques-
408 tions. I did not understand fully your talk then as I do now.

I understood the pay of back money to be different from what you say now. We have received no annuities for years. I understood you to say at White Earth that you would look to the back money as soon as you could. We want to know more about it now. At White Earth they had a committee to ask questions. You think we are wiser than they.

The commission further explained that what was said at White Earth had been repeated to all the bands, and was now repeated

here. "After we are through, if you accept the propositions, we shall go to the Great Father with your grievances and do the best we can for you. The first important thing is for you to get your homes. Then the Great Father will know what to do, and will be anxious to do what is best for his children. While you are wandering without homes he has not known what to do."

Mr. Rice then read the letter of Bishop Marty to the Roman Catholic Indians of Minnesota and asked if any further explanations were wanted.

O-GE-MAH-WOUB. I wish to ask you about the patents to the allotments.

Explained by the commission.

O-GE-MAH-WOUB. It is hard for the Indians to understand many things. Our young men are in doubt. I am in doubt, so I ask questions. Who sells the pine, and does the land go also when the pine is sold?

Explained by the commission.

O-GE-MAH-WOUB. I ask these questions so our people may understand it. Some say we shall be cheated, as we have been before. Some are afraid that after the fifty years have passed we shall be moved again.

Explained by the commission.

O-GE-MAH-WOUB. At the end of twenty-five years will we have the right to sell our land to any one?

Explained by the commission.

QUOD-AINCE (to Mr. Rice). You are well known to all the Chippewas. All are glad that you are one of the commissioners.

We are pleased to hear you say that you will wait for us to understand. What the Red Lake, White Earth, and other Indians have ceded, will it come to us—our share?

Explained by the commission that all Chippewas in Minnesota are to share alike.

AFTERNOON SESSION

O-GE-MAH-WOUB. You can almost see how my heart is on account of my sick child. We wish the young men not to leave all to the chiefs, but to ask questions themselves. When will our schools be established? When shall we go and settle on our allotments?

Explained by the chairman.

JAMES WAKEFIELD. Will there be any annuities besides the interest due us, and how are we to get the 5 per cent?

Explained by the commission.

JAMES WAKEFIELD. Can we settle outside of a reservation and get our share of the money?

Answered "Yes" by the chairman. No rights affected by purchasing land outside of the reservations.

JAMES WAKEFIELD. When this act is signed by us and approved by the Great Father, when shall we receive any money?

Explained by the commission.

MIS-QUOD-AINCE. Will everything be in the same dish? Shall we all be given alike? And shall we get ours as soon as the others? What about the stumpage money due the Mississippi Indians at White Earth? Shall we get a part of that?

Questions answered by the commission.

JAMES WAKEFIELD. When and how will the reservoir damages be paid to us?

Explained by the commission.

QUO-DANCE. When I was in Washington I was told that our reservation was much larger than it now appears to be. Has the Great Father taken away any part of it?

Mr. RICE. No.

MIS-QUOD-AINCE. When I was in Washington they read the treaty with us to me. I was told not to allow any timber to be cut, but great quantities have been cut. What has become of the $10,000 of annuities renewed by a treaty of 1865? We have never received it. Whose fault is it? Will you ask the Government to examine into the matter and let us know about it? The money was promised to us to buy cattle, and to give something to the chiefs, but we did not receive it. We hear that the White Earth Indians got it all. This is why we are so poor. We have no cattle, no plows, and how can we improve? The White Earth Indians have improved. But they have many cattle and plows. We have not even a hoe to dig up our gardens.

KAH-JE-GAY-BE-QUAY (Queen). You have heard what the chiefs have said about our reservation. I have thought also that our
409 reservation was growing small. My father had a section on Rice Lake, and one of the other chiefs had a section on Sandy Lake.

The White Earth Indians get what belongs to us. But I do not wish to go to White Earth. I blame the agents.

O-GE-MAH-WOUB. We wish to have James Wakefield, mixed blood, of Aitkin, Minn., to be our secretary to communicate with the commission all about our matters. I wish to talk of the white men who marry our women, not lawfully but for bad purposes, and then they go away and leave their children for us to support. I blame our women for that. We are willing good white men should take our women if they marry them lawfully. Can an Indian woman go upon a reservation and take a white husband?

Answered by the chairman. If the woman is lawfully married to a white man she may take him with her to her allotment. If not legally married he will be ordered off the reservation and may be sent to prison, the same as is done among white people.

EVENING SESSION OF THE COUNCIL

QUOD-AINCE. I am going to tell you what we all think. I speak for the entire band, women, children, and all. We all feel satisfied

with the propositions. But we have more questions to ask, and we can not finish to-day.

O-GE-MAH-WOUB. We hope the payment to be made under the new treaty will be paid honestly. That has not always been the case. I hope the commission will hurry in this work, so we will know what we are to do. We hope every one will be satisfied. We have to have everything fulfilled, just as has been said in these councils.

Mr. RICE. We are pleased to hear that you are all united. It will please your Great Father very much. The President has never meant to be unjust to you. The injustice has been done by others. He has been deceived, and you have been wronged. We will represent everything, just as it is, and ask him to give relief as early as possible. We are especially pleased that the young men are so anxious to understand everything.

The chiefs have all spoken, and now we shall be glad to have the young men speak. We are all growing old, and the young men must learn to take the places of the older ones. When our report is printed in Washington we will send a copy to your secretary, Mr. Wakefield, so you will all know what we have said about you. We regard you as the head of the White Oak Point Indians. We shall leave the census roll with you.

WAH-AY-QUAH-KE-SHIG (of the Rabbit Lake Band). We have waited patiently to see the end of the council. Now that we understand all, we authorize O-ge-mah-woub to sign for us. We shall return to Rabbit Lake to-night.

O-GE-MAH-WOUB. The time you have spent is not lost. The work we shall do to-morrow shall please you. I wish to speak of our rice fields. Once we could go in our canoes to the lake, and we could fill them with rice in a short time. We have lost much rice in stopping to come here. We think it will be right for the commission to give us other provisions in place of the rice we have lost. We want tobacco also.

MONDAY MORNING, *September 23, 1889.*

The chairman presented the head chief with a copy of the census roll of all the White Oak Point Indians.

O-GE-MAH-WOUB. We have left everything to our head chief. What he says we shall approve. We intended to have made a list of questions but have not done so.

MIS-QUOD-AINCE. Some of our young men do not understand the title to the allotments. How are they to get it, and how much land will they get?

Fully explained.

MIS-QUOD-AINCE. Will you leave us any pine for our use?

Mr. RICE. We will ask the Great Father to set aside some pine sufficient for your use. But this is not in the bill you sign.

QUOD-AINCE. You ought to have brought the treaty book with you. Then we could have seen how it was written in the book, as it was in White Earth. If the book was here we could settle more satis-

factorily. Will the papers we get be good after the 50 years are past?

Explained by the commission.

O-GE-MAH-WOUB. This is what I want. I believe you are sent by the Great Father to offer the best thing he could to us. But my heart is sometimes heavy lest by and by we shall be moved we know not where; but notwithstanding my fears I accept the act and hope all will be well with our children.

(A long discussion was had on the matter of allotments of agricultural lands and grazing land.)

QUOD-AINCE. I do not wish to go to White Earth; I wish to live and die in the land of my fathers. Most of my people feel as I do. When shall we receive the money due us? It should be paid to us here. We do not wish to go away to find our money.

410 Mr. RICE. It is the wish of the Great Father to make it as pleasant for you as he can, but that is a matter we can not decide now. It is our desire to assist you in every possible way. But much depends upon yourselves. You must try to help yourselves by being industrious, temperate, and law-abiding.

QUOD-AINCE. These are my last words. We can not tell when you will finish your work and go to the Great Father. When you do go I wish you to allow me to go with you and take three or four other chiefs with me.

Mr. RICE. There is a law against Indians going to Washington now. But after this matter is settled you can travel the same as white men. If the Great Father wants to see you, he will send for you.

At this point the Indians signified their readiness to "touch the pen," and all signed except a single individual, who said he was perfectly satisfied with the act, but since the treaty of three years ago he had raised his hand to the Great Spirit that he would never sign another treaty.

Here, as elsewhere, the Indians make bitter complaints that they have not been paid their annuities under the treaty of 1864, nor the damages on account of the reservoir dams.

FIRST COUNCIL WITH MILLE LAC INDIANS

MILLE LAC RESERVATION, *October 2, 1889.*

This council was held in the woods on the bank of the lake.

Major SHULER. My friends, I am glad to meet you on this occasion. You have been assembled to meet the honorable commissioners who have been appointed to visit you by the President of the United States.

These commissioners have been sent to make a treaty with you. What they may have to say will be of great interest to you, and I wish you to pay strict attention so that you may fully understand it all. They come as your friends, and I am sure that you will discover that what they say deeply concerns your future welfare.

I wish you to fully comprehend what is said, that you may make no mistake in your negotiations with these honorable commissioners. I now have the pleasure of introducing to you Mr. Rice, whom many of you know, and Hon. Dr. Whiting, who comes to you as one of the commissioners from Wisconsin.

Mr. RICE. The council will now come to order.

Commissioner WHITING. My friends, I have heard much of you. I know of the troubles you have had. I know, too, that in years gone by you were friendly and rendered important service to your Great Father's Government. Your services, your faithfulness to your Great Father in times when the white people were in peril, have not been forgotten. He finds that your existence as a people has become imperiled, owing to the great change of circumstances which surround you. In view of this fact, and fearing that your condition would become worse until it would be unbearable to you, he sent your old-time friend here to tell you what was best for you to do.

Bad men have circulated bad stories about you, and if we had believed them all I should not have dared to come among you lest you should lift the hair off my head; but I am glad to find you a friendly people, and I already feel as though I was among friends whom I had known a long time.

When I first came to the borders of your reservation I asked you to meet your friends here at this place. You thought it strange, perhaps, that we were not willing to come to your place to meet you. The health of our chairman did not admit of his making that exposure. So, as I valued your future happiness, I believed it was our duty to beg you to come where this friend of yours, still with full vigor to defend your rights, could meet you in safety to himself, and I thank you for coming here. So, as the Great Father regards you as his children, and as for the time a partial representative of the Government, I promise to tender you that kindness while you are here that a father always tenders his children.

Mr. RICE. My old friends, we have not come here for the purpose of driving a bargain with you. Our object is to see if we can not so arrange matters that you will know what to depend upon—not only your young men but your women and children, not only for the present but for the long future.

We are glad that your young men are here. We are glad to see so many of you. We are anxious that one and all should understand the object of our visit, for its importance to you now and hereafter is great.

The message that we bring will be read to you by my friend and colleague. At the first reading you may not understand it all,
411 but we are instructed by the President to patiently explain it to you afterwards. Not only that, but to answer any questions asked by you in regard to your affairs, and also to put down on paper everything that is said.

Commissioner Whiting then read the act of Congress under which the commission proceeded, it being interpreted phrase by phrase to the Indians, after which he continued:

This paper is tiresome to you to listen to all at once. You are not expected to understand all of its provisions by the reading of it, but you will find that the commission will listen to your questions and answer all of them to your satisfaction, explaining everything in the bill that you may not understand.

Mr. RICE. By the reading of the act you saw that the President was authorized to appoint three commissioners.

Mr. Rice then read Bishop Marty's letter and continued:

I shall detain you but a few moments now before dinner. I wish to refer to an old matter that has given you a great deal of trouble. That is the treaty made at Washington some 25 years ago. I was there and know all about it. It was a wise treaty; and if it had been properly carried out, you would have escaped all the trouble that has befallen you. Men who cared more for themselves than they did for you thought they had found a hole in it, and that they would take advantage of that and deprive you of your rights. They knew that the Government was engaged in a great war which occupied all its time. They thought that under the circumstances they would be able to drive you from this reservation.

You have some friends who worked for you continually. They had all they could possibly do to preserve your rights and to see that in the end justice to you should be done. Among those friends was Joseph Robert, and I am very sorry that the Master of Life should have seen fit to have taken him away, because it would have been a pleasure to him to have been here and met us all to-day.

The time has come when I am able to tell you that all he said, all I have said to you, all the chiefs told you who were there and made the treaty is correct; that the understanding of the chiefs as to the treaty was right. Here is the acknowledgment of the Government that you were right; that "you have not forfeited your right to occupy the reservation."

We make this explanation now so you may not be like birds in a tree at whom a gun is being pointed, but that you may act without compulsion and without fear of interference with your rights. We wish in our negotiations to have all act—every one of you—as independent men without fear, and see if we can not come to a conclusion that will make your road broad and straight in the future. Some mistakes have been made during this long period since the treaty was made. We wish to see if we can not correct them, so that no one who has acted honestly or fairly should be disturbed or should be wronged. We want to correct all mistakes that have been made so far as we can.

It is now nearly dinner time, and if it suits you we will adjourn until 2 o'clock. I wish you would then meet us promptly, for we have a great deal to talk about. We hope that every young man will be present, for the old will soon be passing away, and they will have to take their places. We want you all present so you will know what is done.

Adjourned.

AFTERNOON SESSION

Mr. RICE. In order to come to an understanding, that you may know all that has been done, I will try to make an explanation of matters not perhaps relating to the treaty itself.

Some of the old men will understand what I say, but it is something that the young men have probably never heard of. It seemed very hard to ask the Red Lake Indians to consolidate their interests with yours, but I knew and some others knew the early history of your tribe for a great many years back, and some of your old men will probably remember something of what I am about to say.

When I came into this country all of your young men, all of your able-bodied men, were warriors, and you were engaged in war with the Sioux not only to hold what you had but to gain more, you having taken all this country from them.

The Red Lake Indians did not take that country from the Sioux alone; you all helped. You were all at war with the powerful tribe, and you all helped to take the Red Lake Reservation, with the rest of the territory. The greatest battle, the hardest fought battle, that ever took place between you and your enemies, took place at this place. The Sioux occupied this country, and the heaviest battle ever fought between Indians took place here, where you drove them out of their mud houses. From that time there were other battles, some large and some small, and you pushed the Sioux west to the prairies. Afterwards you owned the country; and as you had taken it in common, it belonged to you in common.

In 1825, sixty-four years ago, you made a treaty with Generals Cass and Clark at Prairie du Chien, which established the southern boundary between you and the Sioux, the Pottawatomies, and the Menomonies and other Indians. The great council, in looking over your history for a great many years back, came to the conclusion that the holding of the land should remain as at first, and that you should reap the benefit of your united efforts. As the Red Lake Indians are few in number, less than 1,200 on their immense reservation, we went there first and patiently explained to them the situation, just exactly how you all came by this land, and that the Great Father thought that the land should be considered as held in common. After several days' counseling the Red Lake Indians agreed to put all they have in with yours, and that you should hereafter all share alike. We are glad to say that they did it very cheerfully and generously. We held out no inducements or promises. We made no threats. From there we went to White Earth. We were there some days, and you all know the result. They all signed and agreed to it except two of the mixed bloods, and there may have been one Indian who did not sign. We saw the Gull Lake Indians, and every one of them signed. We then went to Leech Lake, and there, as you have probably heard, we had some trouble. We would have had no trouble and there would not have been a

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word of opposition there or at White Earth in the beginning had it not been for some old matters which were unsettled and the damages by the reservoirs. But when we explained to them that this was a proposition coming from the Great Council and the President and not like an ordinary treaty; that they had lost no rights under the old treaties; and that we would do our best to have those old matters settled equitably as soon as possible, they yielded and signed.

The acceptance of this act will not affect these old matters at all, or weaken your chances of obtaining hereafter your dues, but, on the contrary, leaves you in a stronger position than before.

Mr. Rice then made an elaborate explanation of the provisions of the act of Congress governing the commission, and also referred to the provisions of what is known as the Dawes bill, and continued:

We have not come here to scold or to coax, but to explain to you as men the true situation, and then leave to you the decision as to what you will do. We have been out nearly four months, and our labor is not yet ended, having still a great deal to do, but I assure you we shall have the patience to listen to you as long as there is any necessity for it or any business to be done. So do not be afraid of exhausting our patience. If you have anything to say this afternoon we will listen. If not, you can get by yourselves and talk the matter over, and then we will meet again. That is all.

SHOD-AUSH-KUNG. As I am not prepared to make a speech, I will not rise to address the commission. You see before you the friends you wished to meet here. They will answer nothing to-day. We have listened to you very attentively, and wish to profit by the words we have heard. One of the pleasantest things you have uttered this afternoon is that we can not exhaust your patience. We hope not. We will be very reasonable. We wish you to have all the patience in the world, and we will also be patient, until we have arrived at an understanding. To-morrow, maybe before noon, maybe in the afternoon, whenever we have come to a conclusion as to what we should say to you—I hope you will have patience and wait until you receive our word that we are ready to meet you again.

Mr. RICE. Take your time. If you come to a hasty conclusion you may regret it, but if you take time to examine this well you will in the end be better satisfied.

Commissioner WHITING. You have paid so good attention that we will try to get you a good supper to-night. You may come down after council and get it.

Adjourned.

SECOND COUNCIL WITH MILLE LAC INDIANS

OCTOBER 3, 1868.

Mr. RICE. We meet at your request, ready to hear anything you may say.

WAH-WE-YAY-CUM-IG. I wish to say a few words to the commission. It pleases me very much personally that you have come

sounded to come and meet me here on what used to be called my father's reservation. We wish to state that the remarks made yesterday and matters laid before us were not distinctly understood by all the young men of this place. We wish you would go over the same ground again, so that we will understand more fully. That is all.

MONZ-O-MAUN-AY. When we are so far apart it is impossible to understand each other. It is our sincere wish that you may be pleased to have patience with us, show us leniency on account of our ignorance. We have some questions to ask, and I hope you may have patience with us. Please take one point at a time, one section, as it were, and explain it fully and then take another, and so by degrees; there won't be so much confusion in our minds and our young men will understand more readily. When we have
413 all thoroughly understood the matter of these negotiations, then we with one accord will speak our minds. That is all.

Mr. Rice then repeated at length the explanation of the provisions of the act of Congress made the day before.

MONZ-O-MAUN-AY. I am happy to say that we think this understanding is perfect. We think these young men understand all you have said. You will hear from the chiefs; you will hear from the braves and from the young men. We will gather this afternoon. We will discuss the matter very thoroughly. There will be three assemblies this afternoon. You will hear from us after we have discussed this matter among ourselves.

Adjourned.

THIRD COUNCIL WITH MILLE LAC INDIANS

OCTOBER 4, 1889.

Mr. RICE. Council will come to order. We are ready to listen.

WAH-WE-WAY-CUM-IG. To-day will be devoted to questions and to-morrow will be the time for action. This is proper not only on our own account but on account of the commissioners.

SHOH-AUSH-KUNG. Yesterday you heard this young man who has just spoken, speak. You have heard again an expression of feeling by him. You see before you those who have been able to respond to your call. We speak to you, our old friend, who is so well known among the Indians as their old friend, to tell you that this is all that have come in response to the call of the commission. Since you have issued your call and since we have seen you, the parties who are sitting here before us, we were as two distinct parties, you were one and we were another party, and we did not come to an understanding very readily about a place of meeting. You can judge by the weather. It rained; it blowed so that it was impossible for us to come together. The weather was not propitious. But it appears that, seeing you are sitting here in the name of the Great Father to meet these Indians, we see by looking at the firmament and the clouds that the latter have disappeared and that Providence is favoring us by the pleasant

weather for the meeting. I can not give vent to my honest feeling. I can not give you an expression of my own feeling, but you shall hear an expression of the feeling of the young men, from the old men, and from myself.

We can not possibly get through the business to-day that we have on hand; it is impossible. They have to state some things to you to show their wants, their condition, etc. Whatever is said will be said in the name of the whole tribe here; taking the ideas of the whole tribe. I will call on the Master of Life to show you the good intentions we have, that you may have patience with us and listen, and help us to understand exactly what we wish to know.

In the first place [removing his hat] the weather is very nice and can not spoil any paper spread before you. We wish to see the maps, if you have any, to show us the size of our reservation, so when we call upon you to show us the extent of our reservation it will be witnessed, not only by the weak eyes of mortal man but by One who sees all things from on high. [To the Indians:] Is that your idea, my friends?

The map was produced.

MONZ-O-MAUN-AY. I wish to speak to the Indians and also to the commission. I do not wish to insult any of our visitors [referring to white men who were present in council], but I wish to speak very plainly. There is a business of the utmost importance to be discussed in open council, and I call upon the young men of the reservation to listen very attentively to all that is said in this discussion. It pleases the people of this reservation very much to have met you, to have met you heretofore, and to meet you again, and look at your faces and the expression of your faces. You see how nice the day is. Such a nice day as this ought to be a special day, as an indication of the expression made by the Mille Lac Indians that they were not in any way antagonistic to the propositions made to them by the commission, and it should be made manifest by our talk that the propositions are pleasing to them. We understand that you have been appointed by the President of the United States to lay before us all facts and matters pertaining to this act and all information desired by us on any point pertaining to our welfare. That is all I have to say.

Mr. RICE. Here is the map containing all the reservations, and which you may now examine. We want you all to see it so you will have no questions to ask hereafter.

The Indians gathered around the table, and Mr. Rice continued:

You can not all see it at once, so a few had better come at a time. We will give you all an opportunity to see it. There [indicating] is the Mille Lacs Reservation, containing three islands in the southern part of the lake—three in all—although only two are shown on this map. This is the White Earth Reservation. These four townships, what is marked here, they have given up. This is your reser-
414 vation north of Leech Lake. That is the Leech Lake Reservation. This is the Winnebagoshish Reservation. Cass Lake

is here. Here is one of the reservations of the Bois Forts. There is another—Deer Creek. Here is the Fond du Lac and here is Grand Portage.

Here is the Red Lake Reservation, and here is the piece that we gave them from which to take their allotments.

MUH-ENG-AUNCE. It is said that this is wrong; that this reservation ought to extend to this creek up here [indicating on map].

Mr. RICE. This is the reservation according to the treaty.

MONZ-O-MAUN-AY. Your present interpreter and his brother over there, Clement Beaulieu, were there, and that is the way it was explained to this man's father, and his father, Rice-maker, that the reservation extended clear up to the mouth of the creek.

Mr. RICE. The treaty did not explain it by creeks or lakes, but by the Government surveys. And it is very likely there might have been some misunderstanding at the time, but it is now too late to correct it, as this land has been sold to the whites.

MONZ-O-MAUN-AY. There is the big island and two others; there are four islands in all in our reservation. You (Paul H. Beaulieu) interpreted it at the time that it went to such a river and such a lake. We understood that the line extended up 3 miles farther on the west side of the lake than it does on the map. One of the treaties said that so much of the land should be broken, and to show that that was so, and that the Government so understood it, it can be shown that the land was plowed up 3 miles north of the present reservation. And that it was the Indians' money which was so expended on land which the whites have the benefit of; and we have lost the money and the land. Where does the mistake come from?

Mr. RICE. Well, we will have to hunt it up. We can not correct it here.

MONZ-O-MAUN-AY. It was agreed at that time that my chiefs here should take the measurement of the land themselves, in accordance with their wishes, and not to meddle with the regular actual survey.

Mr. RICE. We see now that your money was taken to plow land that is outside of the reservation, and accrued to the benefit of the white men.

SHOB-AUSH-KUNG. I think I am the only man living who was present at the time of the making of that treaty. I saw you (Mr. Rice) there then; but on the Indian side I am the only man alive.

This interpreter was there then. The river should be the line of our reservation. I am not sure that you (Paul H. Beaulieu) are the person who interpreted.

PAUL H. BEAULIEU. I was certainly there, and I think I did all the interpreting.

SHOB-AUSH-KUNG. There is a big point there, which goes right through that island south. That was to be our land; that is the way we understood it.

(NOTE.—Town 44, range 28, section 13, lots 1 and 2, now the property of Mr. Dinwiddee, upon which the land alluded to was cleared and plowed at the expense of the Indians.)

Right from the mouth of the river, in a direct line through the lake, where old Jim Whitehead's trading-post was, that is a gravelly shore; that is the place where our reservation started from toward the interior.

Mr. RICE. We will take this all down. There was a great mistake made, and we will try to correct it in some way; but the land has been sold to the whites and can not be taken back, although there may be some way in which we can arrange it. We have it all on paper.

SHOB-AUSH-KUNG. It is said in the negotiations that the water was not counted in as land at all, but it was only for the purpose of stating direct where it would go to. We were told not to have anything to do with the surveyors—that they were surveying to find out how much land there was there in accordance with the surveys. They said: "Whenever the surveys are made, you let me know and I will send a man." This is what was told me at the department: "He will stand on the edge of the shore and then he will go back to where there is a limit of 6 miles." That is the way we understand it—that it would be 6 miles limit from here to that place. That is what we were given to understand all the time. We were told that we would accompany the surveyor, whoever would survey that land; that when he had gone a mile he would make a mark and we would make a mark of our own, also, and when we had gotten 6 miles the surveyor would make his mark and we would make ours also, so that in future we could not mistake the size of our reservation. We have seen all these things, and I am alive to state all these facts. I am glad to know that I am not feeling my way, but stating what I heard, because I saw all these matters and heard what was told at that time.

Mr. RICE. We are very glad to hear all that you have said, and you will all hear from it.

As this is a navigable lake, you have the right to use it the same as the whites. It is in common; they have the right to go to the south side, and you have the right to go to the north side—that is, over the water.

This matter of the mistakes gives you a strong claim. Did the Government break any land on what is now called your reservation?

415 SHOB-AUSH-KUNG. That piece upon the farm of Mr. Dinwidde is the only piece ever broken by the Government. There never was a single furrow broken at any place save that place there; hence we were led to believe that that was the limit of our reservation where that land was broken. It was under the agency of Major Harriman that that land was broken for the Indians.

MUH-ENG-AUNCE (to the Indians). You shall hear what I have to say. You wished me to say a few words in behalf of the tribe. I wish to speak on other matters, not on this matter that has been discussed.

Our friend, the White Rice, I have understood everything you have put before us for consideration. You say that whoever wishes to go to White Earth shall be allowed to do so. We make [illegible]

to you that as the Government speaks so kindly, and as you have uttered the words of the law, stating that an Indian can take his allotment on the reservation where he resides, we make known to you that we wish to take our allotments on this reservation, and not be removed to White Earth.

I am now going to make known to you the wishes of the people and the wishes of the young men, but these men here [indicating the chiefs] will promulgate the ideas of all the young men whenever they have made up their minds to come and state what they wish or what they are going to do.

To-day will be devoted to asking questions. The young men hear this; that you wish to purchase from them the farming land and also the pinery. We wish our friend, the White Rice, to state just exactly the facts. They point to me and tell me to use the very best Chippewa that I know in stating this important question.

Also there is a lot of children here. Other children will be born to us. How will it be about those who are born hereafter? That is what the young men wish to know, and the braves also.

Mr. RICE. You are entitled to select for your allotments the lands called farming lands, all that can be used as such; we do not ask you to dispose of a foot of that. And there will be nothing done with the lands until you have your allotments.

You will not only have your farming lands, hay lands, but your hard-wood lands, and sugar bush. You are not compelled, where there are two or three of you, to take land in one place. One can take for the farm, another can take the 40 acres in sugar bush, and another can take meadow lands.

As to the children not born, it will be a good many years before they will be able to cultivate any land. When that time comes it is hoped that you will be able to buy more land, as white men do. You do not know what you are getting. If a white man has a dozen children he only gets 160 acres, but every one of your children gets 40 acres, while the white children get none. There is more land than you will cultivate in a great many years. Some questions will arise which may perplex you and give you some uneasiness, but I want to tell you that you must not attempt to settle any of those things yourselves. They will all be settled in Washington. If you attempt it you will fail, and you may make matters worse.

There is nothing now to prevent your taking allotments that are not claimed by others or occupied. When this matter shall be gone through with at Washington, surveyors will be employed here to show you the lines, so everything will be not only convenient for you, but correct. Now, you understand that none but that pine is to be put into market, and it will take some time to do that. If I have answered all your questions satisfactorily, we are ready for more.

MUH-ENG-AUNCE. We want to know at what time we will receive from the Government our conditional patent.

Mr. RICE. You will receive it just as soon as it can be made out after the allotments are taken. That you may understand it, I will

tell you that we are appointed to make the allotments, and when we have done it that is the end of it.

MUH-ENG-AUNCE. We wish to know of the commission if the Indians are going to have a saw-mill here, and also a man to show us how to farm, and a blacksmith and school-masters, and a man as overseer who can write; is it possible to get them?

Mr. RICE. We shall recommend all these things, and expect that you will have them. We hope you are going to improve and advance, and how can you do it without these things? It is not the intention of the Government to pull out your teeth and then tell you to eat tough meat. If it had wanted to deceive you through us, only three or four of you would have been called together, and then, perhaps, you could not prove what was said; but we wanted you all here. We are ready for more questions.

MONZ-O-MAUN-AY. We wish the commission would adjourn for dinner. But we wish to talk to our old friend, the doctor. Long before your arrival, all over the country, the story was that you were the most successful hunter in this section. We would like to see some of his prowess in hunting. Supposing we invite him to hunt this afternoon.

Commissioner WHITING. I have sent a Government bullet after a moose.

416 AFTERNOON SESSION

Mr. RICE. I wish to say that there is a law of Congress authorizing missionaries to use a piece of land upon every reservation. It is not given to them, but they have the use of it. Congress has also appropriated money for the purpose of clothing and educating such of your children as attend the schools of such missionaries. We understand there is a prospect of a school being started among you this fall. We hope so, because it will give you an opportunity to send your children to school and be cared for, and you will have a white man among you whom you can consult.

Our young men are waiting to take the roll. It will require a long time to compile an accurate one, and we wish to have it completed as soon as possible. They are waiting down at the house. There is to be a copy made to be left with you. It will be necessary for the chiefs and some of your headmen of each band to go and give in the names, as we do not want any one left out. To give you as good an opportunity as possible, they will work to-night.

We will now allow you to continue your remarks and to ask questions if you wish.

WAY-WE-YAY-CUM-IG. The persons who were entrusted with the duty of making known to the commission the wants of the people of this reservation, and anything else suggested, will now begin.

MUH-ENG-AUNCE. The chiefs and those back of them all belong to this organization; a committee, as it were, of these Indians. The words I shall say are the ideas of all those before you.

How will it be in the future relative to the building of the dams on the river, which will cause a loss to us, our rice—how is that going to be? And a great many whites are making themselves masters of the meadows inside our reservation. They have cut hay on our reservation, and how is that to be settled? Last winter there was a great deal of hay stolen from the Indians of this reservation by the whites; how is that to be adjudicated? The chiefs here and the old men have always made it a point to tell the young men not to mind it, saying, "The time will come when you will have a settlement of this whole matter."

Inside this reservation there are a great many pines that have been cut. We should like to know what will be the final result of that? Another thing—about the wild animals. If an Indian wishes to go outside of the reservation to hunt deer, will he be allowed to do so in the hunting season? One thing we wish to know for the satisfaction of the people of this reservation: There are many white people who have taken land here. What is to become of them? How is the Government to dispose of them? Are they going to go away soon, and is this question forever settled so far as the Indian is concerned? Are we going to meet with any more difficulties relative to our land and our possessions here, and our rights?

When the whites come amongst us, the first thing they do is to take a mouthful here and a mouthful there. We look at them; they take what belongs to us; we don't say a word. What will be the final arrangement as to this matter?

KAY-GWAY-PO-SAY. We take all these pains so there will be no more trouble in the future. We have had trouble enough heretofore.

Mr. RICE. In regard to the dams and the drainage of your lake, those are matters that the State is looking into. The Government is giving attention to that, and you will probably hear from it soon. In regard to the cutting of hay and timber trespasses, those are matters that your agent will probably speak to you about; he has charge of these. In regard to the settlers upon your lands, that is a matter which we will tell you about hereafter; it is a matter to be settled in Washington. Some of them have papers which they have received, and they know about the position they occupy. I do not think any more will come upon your reservation, and perhaps some who are merely visiting you will leave.

There are some other cases that are different; they will be carefully looked into, and whatever is right will be done. At any rate all will be done for the best, in the interest of justice and to your satisfaction.

In regard to hunting deer, that is a matter for the Legislature of the State to determine. You can hunt deer in any event, wherever you find them during the season set apart for hunting; and wherever the white man may hunt, your young men will have the same right to do so. If you commit any depredations upon any man's property you will be punished for it.

B. P. SHULER. I want to speak to you in regard to the hay, and cutting lumber on the reservation. Any white man who cuts hay upon your reservation without permission is liable to prosecution. His hay is subject to seizure on your reservation, and can be sold for your benefit. Any man who cuts pine on your reservation commits a trespass for which he can and will be punished.

Any timber that he has cut before notice is received of it can be seized and sold for your benefit, just the same as in the
417 case of hay. I am a good ways from you, but if you know of any trespasses upon your reservation of any amount, if you will notify me I will try to attend to it.

MUH-ENG-AUNCE (hands Major Shuler a piece of paper). That paper gives the name of a man who has cut hay on this reservation. The man that he hired was a cook, and that is the man that cut the hay. That ain't the man's name who cut the hay, but it is the name of a man who owns the hay and had it cut. There were twenty stacks—twenty tons—and they are still on the reservation.

B. P. SHULER. I know the man very well.

MUH-ENG-AUNCE. That is right near the post we saw on the other side, and another near Wigwam Bay. I have a complaint to enter against a man who stole my hay last winter.

B. P. SHULER. You must not interrupt the council now, but I will see you at any other time.

MUH-ENG-AUNCE. One word more. This is a question that these people don't understand, and that is why I wish to ask it. When these lands are allotted the numbers in accordance with the Government survey shall be placed opposite the Indian's name; that is his allotment, and then the conditional patent is given. Is that right?

Mr. RICE. It is.

MUH-ENG-AUNCE. I wish to talk relative to the mixed-bloods. We wish to know this so we can not be mistaken in our actions hereafter. The mixed-bloods residing inside of the reservation with us, in what light shall we look upon them? The mixed-bloods outside of the reservation who say, "Some of these days I am going to their reservation and I am going to try to take land there." What is their status?

Mr. RICE. The mixed-bloods residing upon your reservation and acknowledged as belonging to your tribe will be treated the same as yourselves. If there are any others who apply to be admitted for the purpose of taking land, and you object, the matter will be referred to Washington. It can not be decided without a hearing.

Now, in giving in your roll, if there are any you object to it will be noted down. So when the roll is completed a copy will be left with your head chief. We want you to be particular, as the roll is of more importance than you think. We hope and believe that the time has come when you will have something to say about your own affairs, and therefore we want you to attend to the business before you your-

selves. None will be enabled to take lands with our consent unless they are enrolled.

WILLIAM HANKS. How do I stand in this respect; I have land that I bought; have I a right to any more land on the reservation?

Mr. RICE. Is the land you bought outside of any reservation?

WILLIAM HANKS. Yes, sir.

Mr. RICE. If you are recognized as a member of the tribe you have just the same interests here as if you had not purchased the lands. This does not prevent any of you from buying land outside if you have the means to pay for it.

WILLIAM HANKS. If I should give up my share of allotments here, I have not land enough there to make up the amounts due me; could I take lands there in lieu of taking them here?

Mr. RICE. If you do not take your allotments here, you can enter any land vacant under the homestead law. But you do not forfeit any rights to annuities by so doing. When the matter comes up we will see that the law is made perfectly plain, so you will all understand it. You pay nothing for the homestead, but no matter how much land you buy you still have your right to land on the reservation.

WILLIAM HANKS. That is all, and that is satisfactory.

MUH-ENG-AUNCE. The young men think that whoever has cut any timber on this reservation that the matter should be followed up. We are addressing the agent now. We wish that the agent should inquire into all these depredations. They come here and cut timber and sell it. They have done it for fifteen years past. We wish to ask about the Snake River Indians, those who are of this reservation. We wish to know where our allotments will be made; will they be made to us anywhere on Snake River or on this reservation? Our friend, the White Rice, explained that to us. There is a man here who is actually a chief, old Buffalo's son, and another from Snake River, and they wish to know this.

Mr. RICE. The Snake River Indians stand upon the same footing that you do on this reservation; they can not take their allotments anywhere except on this reservation or at White Earth. You can give up your interest in this reservation, in the land, and take homesteads elsewhere, and still be entitled to draw the same annuities that the others do. On the homestead you have to live five years and then you get a patent, but you can not sell it for five years after the patent is issued; neither can it be taken from you on execution. We are in hopes, when we get in working order, to have some one here to explain the law and everything connected with these matters. Those wishing to draw their annuities must be enrolled, and the two chiefs from Snake River will perhaps be able to act for their
418 people. If they have come here representing their people they will be authorized to act for them. There is no question in regard to their having the same interest here that you have.

WAH-WE-YAY-CUM-IG. They roam that country because they are accustomed to it.

MUH-ENG-AUNCE. Our friend, Mr. Rice, and the other commissioners: Now, we will get amongst ourselves, and see how many there are to be enrolled. To-morrow we will give you an anwser about your mission and give in our rolls. We have finished for to-day.

FOURTH COUNCIL WITH MILLE LAC INDIANS

OCTOBER 5, 1889.

MUH-ENG-AUNCE (addressing the Indians). My friends of Mille Lac, we are not assembled here for the purpose of just uttering words of no account. We must take courage and let us see what we can do for our benefit. Let us see if we can not arrive at a conclusion that will be beneficial to us. Our chief says we must accept what I am going to tell you. Do not let us look on this as a mockery. This is a settlement of all our past difficulties. We have suffered in the past; do not let us be children. Do not let us miss this chance. They tell us that we are going to stay here forever, and that they are going to make allotments to us. Let us trust to them; don't let us lose faith in the words of the commissioner. The oldest friend we have is here, and our Great Father has selected him and we must listen. This is all I have to say to you, my young men. Do not be foolish, I say again; let us accept this proposition. I trust to you that you will not act in a foolish way.

If the White Rice and the other commissioner will please grant the request of the Indians of Mille Lac, it is the first we shall make of them, and we shall express our opinion of the proposition made to us. The chiefs here are very anxious that this arrangement should come to a close to-day.

Will the Mille Lac Indians be in receipt of cattle and agricultural implements after the land is allotted to them in severalty, or shall the lands be allotted without anything to work with?

MONZ-O-MAUN-AY. It is the wish of the Indians that the commission should answer what has just been spoken.

Mr. RICE. It it expected that the allotments will be made first, so that it will be known where the improvements can be made for such as wish to make homes for themselves. Of the $90,000 that the Great Father loans to you, you can use a portion in making improvements if you wish. You know very well that you can have no money of your own until your pine is sold. It may be that the Government will see fit during the winter to make an advance of money to enable such of you as wish to farm to furnish you with cattle and implements, but it is not in the treaty and we do not promise it. We only say that it may be. It is not in these negotiations that you should have a mill this winter, but it may be that the Government will send you one this fall or early in the winter, that you may be prepared in the spring to build houses and make a start in life. It may be that a man will be sent here under your agent to consult with you; a man you can talk to in regard to your business, so you will not be at a loss at any time. But we wish you to distinctly understand that there

things are not in the paper, and if they do not come about, you must not blame anyone. The Government does not wish you to become any poorer than you are now; you are poor enough.

The object is to enable you to better your condition. We come here as your friend. Your agent is here to see your condition. All we can say is that our words will be true and straight. We have not asked you to make any promises; we have not asked one of you to sign this agreement, and you must not ask us to make promises. We will do our duty to the Government; we will do our duty to you. We hope that with this you will be satisfied. Words and promises are cheap, and we do not wish to use either unnecessarily. You chiefs and headmen and young men, there is not one of you but feels in his heart that he is with his friends.

MONZ-O-MAUN-AY. You, my friend, the White Rice, who have been a long time in this country and knowing to our business, you are not ignorant of the amount of money that has been taken from our annuities in the past. We ask this of you, my friend: Is it likely that any time we shall use any of that money that we call the arrearage fund that is due us? You know about it, and the old trader there (Clement H. Beaulieu) knows about it.

Mr. RICE. In 1854, thirty-five years ago, in a treaty at La Pointe, I first told you of this; that there was money due, and I put it in the treaty, so that when the amount was ascertained the money should be paid you. We commenced working to find the money; it was scattered in small and large amounts, and from time to time we thought we had got pretty well along, when the great war broke out and stopped everything. Your friends worked at this until I think about 10 years ago, when a report was made, and they found $118,000 due you. You know a part of this belongs to the Indians of
419 Lake Superior, the other part to you. The Commissioner of Indian Affairs said this belonged to you, that the Government owes it to you, and asked the Great Council to make the appropriation. The only reason we know of why it was not appropriated is your unsettled condition. We have explained this to the other Mississippi Indians wherever we have been, and have promised to do all that we possibly can to have that money appropriated this coming winter. We hope it will be paid to you when you need it the most. It is not disputed that the Government owes you the money, but it has taken a long time to find it. It has been so many years that a little has dropped out here and there, so that it has taken a great while to ascertain the amount.

KAY-GWAY-DO-SAY. My friend, the White Rice, we know very well that this must be very tedious and tiresome to you—that you have had a great deal of work to do; but, nevertheless, we have a little burden for you to carry to the Great Father. We recognize the power vested in you, and we know whatever words are uttered shall be taken to the Great Father. We are depending very largely on rice-fields for our subsistence. A dam has been built, ruining the rice-fields on our reservation. The dam overflows the rice and ruins

our crop. It is over thirty years since that dam was constructed and our rice-fields year by year are destroyed. I have also heard two lumbermen utter these words: "We have come here for the purpose of cutting timber on the Indian reservation." I told them that I did not think they would be able to get any pine, because the land was occupied by the Indians. But still this man went to work and did cut lumber on the reservation. Now, it is very surprising to us how such a thing could have happened. The man told us positively that they had received a patent for that land. We wish to know who opened this reservation so that those patents could be good for pine lands. There is not an Indian of Mille Lac but what knows that what I am now uttering is the truth. We wish you to call that to the notice of our Great Father and see who originated that and by what authority it was opened.

Mr. RICE. We will send your words to Washington about those matters and call special attention to them.

MUH-ENG-AUNCE. We have heard a great deal about the money to be paid us on account of the damage. What is the status of the Indians relative to that, the reservoir damages? In the past the Government has purchased goods for us cheaper than we could. It is our request that you should inform the Government that we would like to have them purchase goods for us hereafter. We wish to state that we have been rather pressed about this matter; we don't think we have had time enough for full discussion. We will now retire and afterwards report.

Mr. RICE. A commission was sent soon after the first work on the reservoirs was done, but its report was not satisfactory to any one, as it did not allow enough. A few years afterward, Captain Blakely, Governor Marshall, and Rev. Mr. Gilfillan were appointed a commission to ascertain the damages. They made a thorough examination and report. It was a very fair one, which was that so much money should be paid to you every year. Before the Government had time to consider that, the Northwest Commission was sent out, and they agreed with the Indians that $150,000 should be paid for the damages, $100,000 to go to the Pillagers and $50,000 to go to you.

The object of the Government and our intention is to settle up all these matters as rapidly as we can, so you can start out anew. It is the best that everything should be settled so that none of us will have to look behind hereafter. We know that it is right that this should be done, and we know it is what you desire. None of us can go ahead very fast when there is something pulling us back all the time.

AFTERNOON SESSION

Commissioner WHITING. Now, my friends, if you are ready, we will declare this council open to hear anything further from you.

WAH-WE-YAY-CUM-IG. It is about time now for the chiefs, if they desire to say anything, to proceed.

MUH-ENG-AUNCE. Our friends have again opened the council for us to proceed. We wish to ask, after the pine has been cut off the pine lands, could we not have allotments made from where the pine is taken? I have one question now that I wish to address direct to our agent, relative to the annuities. The last annuities that the late agent paid to us—and I wish also to refer to the other agent who was here before the last agent. What shall become of that money that is due those persons who did not receive annuities at that time? There are two agents back that the money has been due from, to a portion of our bands. What is to become of that money? I know positively two of my own band who have not received annuities for that length of time, and there are others of the chiefs who say that some of their bands have received no annuities. They think that annuity is still due them. We wish first to hear from Mr. Rice and then from the agent.

Mr. RICE. The land goes with the pine. The white man
419 who buys the pine takes his own time to cut it, but he pays for the pine and the land together. Every tree that is burned after the sale is his loss; every tree burned before the sale is your loss. If you only sold the pine it would bring you very little money, or you would have to wait a long time for it. By selling it together you get much more, and you then don't care when the white man cuts it. If you sold the pine without the land, the land would be taxed and would soon eat itself up, but as soon as the sale takes place the purchaser has to pay all the taxes on the land and on the pine.

B. P. SHULER. It is said there are a good many annuities due to the Mississippi Chippewa Indians. I am unable to say how much. I have been so busy since I came into the office that I have not had time to hunt up the papers. Under the law every agent when he goes out of office must turn that money back into the Treasury of the United States. Any agent who has not done that will be held responsible—he or his bondsmen. As soon as I get time I am going to look that money up, and if I can't find any record of it in the office at White Earth, I will write to the department at Washington and get a statement of what is due to the Indians here. I have been informed by the agent whose term has just expired that there is $2,002 due these Indians here that has been turned back into the Treasury.

SHOP-AUSH-KUNG. You see that I am pretty well advanced in age, and so are you. I understand the words you bring to us, and I understand they are words of wisdom and words of authority. I understand everything you have said. What pleases me the most is to hear what you are ready to do for these Indians, what you are going to give the Mille Lac Indians, my fellow Indians who reside on this reservation. My friends, I do not wish to shove you away; I wish you to understand that the words you have brought are in my heart, and I accept what you have told me. Although I understand you thoroughly, I want you to answer me this question: Where do

you take these words from; who sent you here to utter the words you have spoken? Will you please answer me the last question?

Mr. RICE. We came direct from the Great Father, from no one else.

SHOB-AUSH-KUNG. The last question you have answered rivets the friendship and rivets the words you have put into our hearts; they are there to stay. You have come from high authority. Whatever you say are the words of the Great Father and express the wishes of the Government. You have acknowledged in the name of the Government that it owes these Indians, and have made the explanation. The Government has borrowed that money from us and is keeping it. (To the Indians.) Is that the way you understand it, my friends? (The Indians answer "yes.") We do not wish to play hide and seek; we wish to come right straight forward and express our opinion. We don't deny that the Great Father has money. Muh-eng-aunce and I went into the Treasury of the Great Father and saw the piles of money that the Government has.

My friend, Mr. Rice, we know you are old; we know that you take great interest in us; we know if you undertake to find that money you will discover what is due us and get it.

My friend, I am always fearful, as I am getting to be an old man, and I am afraid that if you had not come here and taken an interest in our behalf we never would have seen that money. There is nothing we can say that is new under the sun. It may happen that that money due us is melted into one solid mass and can not be obtained, but before it is melted into a solid mass try to get for us the amount that is due us. [Shouts from the Indians.] Not for myself, my friends; you see how old I am. A man of my age, the past has proven, can not always live. I may pass away without being benefited by that money, but I speak for those you see here; I speak for the women and children whose money it is, and I hope they will reap the benefits of it. My friends, I want to shake hands with you once more (shaking hands with the commissioners). I have referred to my age. I raise my hand to the Master of Life that He may witness my good intention and I call upon you to have pity on my words and see that they are verified.

Mr. RICE. If our lives are spared we will do all that we can to benefit you, and we hope in the end the result will prove perfectly satisfactory.

MUH-ENG-AUNCE. Those who are inside the reservation—the people—wish to know positively that the whites will be removed immediately; that is what we wish.

Mr. RICE. Your words are taken down. We can not answer that question, as it is a matter to be referred to Washington, and is for the Government to decide. There is only one thing to be done; and that is for you to keep quiet and disturb no one. Wait until you hear from your Great Father. If there is anything wrong he will correct it; he will not permit you to do so. The law has come to stay, and when it is appealed to its decisions will be made in the

interests of justice without regard to the preferences of the Indian, the white man, or the black man, the rich or the poor. Any rash act might destroy all that has been accomplished.

KAY-GWAY-DO-SAY (addressing the Indians). Do not keep the commission waiting. Now is the time to decide about signing. If any of the chiefs are opposed, let it be known immediately.

421 NAY-ABE-ABE. The men you see seated here understand all you have told them. We know the Great Father is going to fulfill all that has been said here. We wish to refer to our Great Father's men who have abused us a long time. We understand it will be left to our Great Father to fix all the difficulties that surround us. The people here are very much pleased that that is to be the case.

Mr. RICE. Whenever you are ready to sign you may signify it.

SHOB-AUSH-KUNG. So far as I can judge, every man accepts this proposition—those who will be on the roll. That is the way I understand it now. I do not talk at random. I inquired into their feelings, and they said, "We accept this, and accept that," and in so accepting they accept it all. That is what I come to tell you.

Woh-we-yay-cum-ig then addressed the Indians.

MUH-ENG-AUNCE (after addressing the Indians). My friend, the time has arrived when we must ask you something. This is another great consequence. This young man [Way-we-yay-cum-ig] has to-day proclaimed his rights as the head chief of this tribe. He has said that he wished to accept of the proposition. He wished to call the honorable commissioners to the test, and that the three commissioners should all declare to the Master of Life that they will solemnly carry out what you have promulgated to them.

SHOB-AUSH-KUNG. You know very well that the Indians do not wish to do anything that may hurt the feelings of the honorable commissioners or mar the peace and friendship that exists between us. That the Mille Lac Indians are well behaved, that they are doing their best to behave well, I have noticed for a long time, and it is actually so. You know very well that at the time the country was in difficulty and there was an outbreak what the attitude of the Mille Lac Indians was. They offered their services to the Government of the Great Father. The promises they made then and the loyalty they showed they still preserve. They covet the friendship of the whites and the protection of the Great Father.

It now seems as if this reservation was shaking all the time on account of the excitement and conflicting interests. We wish you to quell that shaking, and we depend upon you to do it. We wish to remain here, quiet and in peace, and will do nothing wrong. All that we will look for hereafter will be to see the face of the White Rice among us to come and make the allotments and to do what he says. There is all to be gained by remaining quiet, and we promise to do it. That is what I promised them to tell you. Whenever a man comes here clandestinely, let him come from where he may, to make trouble, it will make no difference, we will give him to understand

that we want none of his advice. The words that the White Rice put in our ears are still ringing, and we will tell that man to retire in quiet. Many will be the influences which will tell us that nothing of this will be fulfilled. "Do not believe anything of it." Many of those words will we hear. We have heard the words, and we will depend upon them. They say they wish to have their allotments made here, and made solid under their seats, solider and solider every move of their bodies; that is what we want. The sun is getting low; we are waiting for each other on each side. What shall we do? It will not do to wait until night; we must complete this arrangement.

KAY-GWAY-DO-SAY. I wish to say a few words to our friend, White Rice. The Mille Lac Indians understood—they say that you said at Sandy Lake that you would see the Mille Lac Indians here only for a moment, and that if we would not listen you would throw us aside. But we have heard from your own mouth, from the commission, and our hearts are settled on that point, and that you intend our good; that we are going to have our allotments on our old reservation where we have resided. Our head chief has accepted the proposition. He has studied this matter thoroughly. I follow in his footsteps. I think this is for the benefit of our children and for their happiness.

WAH-WE-YAY-CUM-IG. The honorable commissioners will please put down their names before we sign. As soon as your signatures are written we will sign.

The commissioners signed their names.

WAH-WE-YAY-CUM-IG. Let us raise our hands as a token of sincere friendship.

The commissioners and Wah-we-yay-cum-ig stood up and raised their hands while the Indians shouted "Ho!"

Wah-we-yay-cum-ig then signed the agreement, followed by the other chiefs, headmen, braves, and young men, Monz-o-maun-ay saying that he wanted "to hold the rudder;" that is, to sign last of the chiefs, and continued:

I think you have the signatures of all the chiefs. I touch the pen in accordance with this act, and I hope the Great Father will fulfill the promises made through his commissioners. We wish to reserve for ourselves some pine that will enable us to make houses.

Commissioner WHITING. That has been said, and we have it down.

MONZ-O-MAUN-AY (touching the pen). And I do not want to be removed from here.

KAY-GWAY-DO-SAY. Never while I have been living have I touched the pen for any arrangement, but I shall now do so out of re-
422 spect for my chiefs who say they understand this. I do it because I receive annuities for a lifetime, and I also do it on behalf of my children.

We wish to have 320 acres at a place for a settlement. I mean a place where our schools, etc., shall be.

Mr. RICE. It is hoped you will have a superintendent and blacksmith, farmer, a man to run your mill, and physician, and that there will also be schools and missionaries. It is necessary that there should be a place for their accommodation. That, I suppose, is your object in wishing the land reserved, and I think it is a good idea. It will be the same as a village is among white people, where they go to do business.

Commissioner WHITING. My friends, at this, our last meeting, it seemed to me that I ought to say some things to you that I have not had opportunity to say before. In your negotiations with the commission during the last week you have transacted by far the most important act of your lives in these many years. We hope and believe that it is a beginning of a new life for you. In beginning this new life you will find some difficulties. When the white people first began their new life in this country there were great hardships, and they struggled manfully against their burdens for many years. But they were a hardy, persevering, patient people, and they toiled on and on amid difficulties until they have finally, as you see, become the richest and most prosperous nation on the globe.

This life of farming which you are going to enter upon, on land that you own, and will own forever, is that new life to you, and you have got to learn it with patience. You will soon learn to hold the plow, to use the hoe, to push the spade into the ground, and you will like it, I know.

I can not express to you the pleasure I have had in meeting you and finding you so kindly a people. Of course, you know there is a certain class of people who want the land you have lived on. We were at one time afraid you would not come to see us, and we knew that that would be bad for you.

Your hardest time will be over in a few years. If you cultivate the land you own, you will raise one year enough so that you can lay by in your storehouses sufficient for the next year, should there come an early frost, and you will have enough to live on until the next crop comes. If you are prosperous, as you may be, your children, the children of the young men who are now living, will be the richest people in this great State of Minnesota. You have all the land, you know what to do with, and more, but the lands are of little use unless you cultivate them to produce what you want for your comfort. And money is worse than nothing if you do not spend it wisely.

And so now, as you are to take the places of citizens and live as other citizens of the nation live, I want to exhort you to do certain things. First, when you get money, if you owe any of your brothers or anyone else, any white man, anything, pay what you honestly owe. Always conduct yourselves so that you are not afraid to meet any man and look him in the face. Then I ask you to be patient with the visitors who come to live near you. If some men have settled near you upon what you think is your land, do not try to drive them away yourselves. Appeal to your Great Father, who

certainly will settle such difficulties in an honest, proper way. The white man is encroached upon many times by his white brother, but he has to wait. A man can not take the law into his own hands, although he may think it is right. He must wait patiently for the law to settle it, and so you must wait. It is sometimes hard for us to wait for the law, but the white man has to do so, and you must wait too, and wait patiently, knowing that it will be made right at last.

There is one other thing that I want to speak to you about, and then I have done. There is the world over a terrible habit among the human race of taking fire-water. It curses the white man and destroys his family and himself. It is no worse for you than it is for the white man but it will destroy both. I am getting to be a pretty old man, but all along the pathway I have traveled from boyhood, I have seen my best friends that I loved dropping down, down, down, because of their habit of taking this terrible drink. The troubles that men get into, no matter what their color or where they live, the troubles they get into are largely due to the fact that they drink this burning water. You can recall, I doubt not, among yourselves that where any difficulties have arisen between you and your neighbors, many times it has come because of this terrible drink.

I want you chiefs and head men to ask your young men not to use it. The man who brings it on your reservation, or near your reservation where it can be got, is your enemy. I felt troubled by the bad stories that had been told of you. I was afraid you would not be sober when I came here, and that I could not talk to you. You can not know how glad I was when I met you and saw you and said, "These are sober men." You have seen drunken men; men who have taken so much of this burning liquid that they were men no longer. It makes the brave man, the kind-hearted brother, the loving father, it makes him as hideous as the horrid serpent that bites you. It makes him as filthy as the wolverine, that wallows in his filth. It makes men fierce as the tiger, that springs upon a man to destroy him. And above all, it destroys not only the body,
423 but it destroys that part of the man which hereafter goes to dwell with the Great Master of Life.

So I say the only safety for man, whether he be Indian or whether he be white, the only safety is to shut his mouth against this terrible drink. Whenever it is offered to you say "no." Write "Kah-ween" across the forehead of the boys, that each may read it from the others not to touch it. Write "Kah-ween" across the hand, so that it will not take the cup that is to carry it to the mouth. Emblazon on the trees that guide you through the forest "Kah-ween," also.

And now, my friends, I have said this to you because I want to do you all the good I can in this new prospect that is before you. So now, my last words: Live soberly, industriously, honestly, and you will succeed. We shall not all meet again. Whatever comes, I ask you to remember that I came to you with the kindest feeling and that I have tried to do my duty. If trouble or doubt comes to

you, remember that you have a fast friend in the distinguished chairman of this commission. He never failed to bring comfort to you, and while he lives he will never turn his face away from you as long as you do right. Do not take any important step without asking him if it is wise. And now, as I leave you, I shake hands with your chief and I shake hands with you all.

FIRST COUNCIL WITH GRAND PORTAGE INDIANS

GRAND MARIAS, MINN., *October 20, 1889.*

At both the morning and afternoon councils, the act of Congress governing the commission was explained, and as there were but a few Indians present and they preferred to proceed to the reservation at Grand Portage and act with the Indians there, no further action was taken.

SECOND COUNCIL WITH GRAND PORTAGE INDIANS

GRAND PORTAGE, MINN., *October 23, 1889.*

All the councils at Grand Portage were held in the Government schoolhouse.

The council was called to order by Commissioner Whiting, followed by prayer by Bishop Marty.

An extended explanation of the act of Congress was made by Commissioner Whiting.

COFFEE-MOCK-O-ZO. We were not informed of the intention of the commission to visit us at this time of the year. We are unprepared to ask any questions. We must discuss this matter with as much intelligence as possible. Had we been informed that you intended to visit us, we might have got together, but as it is, we must consult together. We will send a person over to the boat when we get ready.

Whereupon the council adjourned until 2 p. m.

The council convened in the afternoon, and the Indians were invited to make any inquiries they desired.

COFFEE-MOCK-O-ZO. There are a great many here who did not fully understand the remarks of the commissioner who spoke this morning. We wish the same repeated.

Bishop Marty then restated the main points in the act of Congress.

COFFEE-MOCK-O-ZO. To be certain whether the commission comes direct from the Great Father, we wish to know this.

Bishop MARTY. We have been appointed by the Great Father himself. Most people know this, and we suppose the reason you have not is that you live up in this corner of the country and do not read the papers.

The act of Congress was read, and interpreted by Mr. Beaulieu.

COFFEE-MOCK-O-ZO. We should have got through to-day, but we can not until the balance of our people are here. We want them to know about it.

Bishop MARTY. So do we.

Bishop Marty continued his explanation of the act of Congress, and at its conclusion, asked if it was understood.

COFFEE-MOCK-O-ZO. Yes, sir; I understand it thoroughly. A great many understood the purport of the whole when the commissioner spoke this morning.

Bishop MARTY. Have you any pine lands on your reservation?

COFFEE-MOCK-O-ZO. We have a few on that [indicating the south] side of the reservation. In case mineral is discovered on any selections made for allotments on the reservation, can such allotments be held?

Bishop MARTY. Certainly.

Commissioner WHITING. I want to know how much and what quantity of pine there is on the reservation.

424 MOSES MAY-DWAY-AUSH. There is hardly any—not enough to take any account of.

Bishop Marty continued his explanation of the act, by stating the terms of section 7 thereof regarding the creation and disposition of the fund arising from the sale of lands, and the provisions regarding the census and method of taking it.

COFFEE-MOCK-O-ZO. It is very hard to take the census now, on a weak stomach.

The Indians were promised rations by Commissioner Whiting.

Council adjourned.

THIRD COUNCIL WITH GRAND PORTAGE INDIANS

GRAND PORTAGE, *October 24, 1889.*

The council was called to order by Commissioner Whiting, after which prayer was offered by Bishop Marty.

COFFEE-MOCK-O-ZO. We have selected a person to speak in our behalf. It is not that we fear to speak, but we thought it best. It is generally our custom to make a selection whenever any person of any importance visits us, but not through any fear of expressing our own thoughts. In reference to the act you have submitted, we have thought proper to ask a few questions before proceeding to other business, if the commission may be pleased to listen.

WAY-DWAY-AUSH. I have been selected to speak for this band of Indians, to ask a few questions. We wish to know, in relation to the allotments of land, what security the Indians will have after the land has been allotted, in regard to any improvements made upon the land hereafter, and the power of the Indian to retain the land and the improvements. The Indian who works on his land, will he have the same right to retain it as he who does not work?

The next question is, How are we going to progress in agriculture without any means; are any means to be furnished those who wish to work their farms and make progress? We wish to know exactly the position in which he will stand—whether he will have to work on

his and to guaranty it. If a person works, how shall the means be furnished?

Bishop Marty then explained again the provisions of section 7 of the act.

Coffee-mock-o-zo told the Indians present who were in favor of the propositions of the Government to rise, which they did, showing a large majority of the number present.

MAY-DWAY-AUSH. Honorable commissioners, I shall make known to you the thoughts of the people residing here on the shores of Lake Superior. We have met in council, and we have matured our judgment upon the subject-matter you have laid before us, and considered it from all points; we think we understand every point very thoroughly. After hearing what the honorable commissioners have said and explained to us—the different sections of the bill they bring—we are pleased to say that we have very carefully lodged it in our minds.

We feel very thankful for this great kindness on the part of the people of the United States towards us. We feel thankful also to Almighty God, whose name has been mentioned in connection with this. We are very thankful to the President of the United States for selecting and appointing these honorable commissioners, and that he should have thought of one whom we so much respect—that is, the venerable bishop. That is what the Government has promised us. When the whites first visited our land they promised that we should have the succor of those who were the apostles of Almighty God. In times past the word was spoken by the great Government you represent, "You shall not always stand as you stand now, as a pagan, knowing nothing about the words of the Gospel, but in time you shall be in a position to understand what civilization is and all its comforts." That is what was told us. The time has come when the words are being fulfilled. Can anything in the world afford more pleasure to a people who are formed like the whites than to have the same education and to be in the same position, to make their own laws? I have been a child heretofore, and the thing would have seemed preposterous, but I am happy to say that we have arrived at manhood.

We wish you to represent to the President of the United States and the American Congress that it is a great boon that has been extended to us this day. We stand here before you on the eve of being placed on an equality with the whites, and it is a thing we have much coveted. You may represent to the President and Congress that the hatchet is buried forever, and that the civilization you extend to us we accept with open arms. Many a day and many a year have I waited for this day to appear. I have waited and waited for the day when I could stand on an equality with the white man.

The words I have spoken express the feelings of the people of Grand Portage, and we accept fully the propositions you have made to us. We accept them with such feelings that it is difficult for me to make myself clear, but nevertheless we wish the fact made mani-

fest to your Government. [The speaker shook hands with the commissioners.]

There are a few words more we wish to say to the commissioners. We wish to ask that you may be pleased to insert in the records that the Indians of Grand Portage desire to place here to be taken as allotments by no one, but to be devoted to the establishment of schools, churches, and whatever such improvements may be made here. We wish the commission to ask for 400 acres; and the pine there is here is hardly sufficient for the use of the people on the reservation, and that we may be allowed to utilize the same for our use.

Our fathers, who negotiated with the Government the treaty made when our reservation was laid out, must have misunderstood it, because they understood that the Grand Portage Reservation should reach to the mouth of Pigeon River, and we wish that the Government of the United States would protect us from encroachment on our shores. The fishermen are ruining all our fisheries here with pound nets, all along the shore, so that we can not get fish enough to live upon.

We wish that you would submit to the Government our claim to Isle Royale. We have never received a cent for it. And there is another thing we wish to know, and that is about the claims made by Nah-gah-nup, chief of the Fond du Lacs, in encroaching upon our lands, before we became parties to the treaty with the Chippewas of Lake Superior.

Bishop MARTY. Regarding the 400 acres, we do not know whether there are 400 acres in all along the shore here on the reservation which could be retained for all in common. That can only be ascertained when the land is surveyed. But as it is, you wish that all this land along the bay be reserved, and we will recommend to the Secretary of the Interior that it be done.

The Catholic Church can take 160 acres, according to the general law among the Indians, and I suppose that when the Bishop of Duluth comes he will take that amount of land for a Catholic church and school.

Then it is said also in our instructions that none shall take his allotment on pine lands, but that the latter shall be reserved for the use of all. So we shall also recommend to the Secretary of the Interior that these pine lands shall be reserved for the common use of the Indians of Grand Portage.

You can wait until the land is surveyed, or one can select now the land he wishes. Afterwards, when the surveyor comes and runs the lines, perhaps a corner may be cut off, but the main body of land which each selects will remain fixed; but if the corner cut off should seem to him of more value than all the rest, he can stick to that corner and take it; that is, he can take the 40, or 80, or 160 acres in which that corner is.

In case you should all remain here and there should not be enough land to make each a full allotment of the number of acres we have

named, you will each get a few acres less, so as to make for all an equal division.

As to the mouth of Pigeon River, I thought that belonged to you. Has any one else made a claim upon any of the land this side of it?

MAY-DWAY-AUSH. Only in the treaty; but I think it was extended by Executive order to Pigeon River.

Bishop MARTY. I think there will be no difficulty about that. You need not be uneasy about that matter. If you agree among yourselves it will be all right.

As to the Isle Royale matter, we will, of course, bring it up. Your request will be printed, and it will become known to the Members of Congress. And so as to this matter of the Fond du Lac chief—we do not, but our interpreter does know about it, and he will explain it to us so we can endeavor to comply with your wishes. I only say that we shall look into these matters with the same care and earnestness as if they were our own.

As to the fishing along the shore, that will be regulated by the laws of the State. There are certain rules about fishing, and those who do not comply with them can be punished. From the time you take lands you will be citizens of the United States and citizens of the State of Minnesota, so the laws will protect you.

MAY-DWAY-AUSH. We wish to submit to the honorable commission that these people of Grand Portage are very anxious to always get a livelihood by work, and we wish to be employed in the surveys about to be made as far as we can be. And it is also important that you recommend that the surveys be made immediately and the allotments made, so we can stand on an equality with our neighbors. While I was an Indian I had not got prepared and did not know how to go to work to become a white man. We wish to make a request of our Great Father. The time is approaching when tempests will arise. We wish to ask our Great Father to furnish us subsistence to aid us during the coming winter. This is the request of the people of the Grand Portage Reservation.

Bishop MARTY. We do not make the survey, but the General Land Office, under the Secretary of the Interior. I suppose it will not pay the surveyor to bring other men here if he can get those here to do the work, and he will prefer for his own sake to employ the Indian. And it would take him much longer if he had men unacquainted with the country. But we will recommend that the survey be made as soon as possible. We will see what we can do for you.

When the survey is made we will ask that there be pine
426 enough reserved for your use. If there should be more it will be sold like the pine of the other Indians, for your benefit, and we are the ones to see to this matter of the allotment of land; I think we will understand each other well enough when the time comes. If you wish, I will read to you the paper which you are going to sign.

Bishop Marty then read, through the interpreter, to the Indians the agreement with those belonging to the Grand Portage Reservation.

Commissioner WHITING. I want to know how many of these young men have ever accompanied surveyors in any capacity?

Seventeen of the Indians present stood up to be counted.

JOHN MORRISON. I have been on a great many surveys, and these men are used either as chainmen or as axmen.

Bishop MARTY. Those who can write should sign their names; the chiefs first.

COFFEE-MOCK-O-ZO. We wish to say to the honorable commissioners that in the past the reason we are always ignorant of whatever we sign is that no copies have ever been given us. If you may be pleased to give it to us, we wish a copy of what has been read to us left here, with a copy of the census rolls.

Bishop MARTY. The secretary will make a copy of the agreement for you. But you must understand that you cede this to the United States for the purpose of getting a patent for the land in severalty; otherwise he could not give you the patents.

The Indians proceeded to sign the agreement in order of rank, after which the council adjourned.

At the afternoon session the signing was continued.

Commissioner Whiting called up Louis May-maush-kow-aush and, handing him a copy of the census roll of the Grand Portage Indians and a copy of the agreement of the Government with them, said:

This is the paper you have all signed. You can take it and whenever you care to examine it you can do so and it is all before you.

And now, my friends, a few words before we leave you. I am sure the Great Father will have much pleasure in what we can tell him about you. As I take the map and run my finger along the north shore of this great lake, away up here in this region, where we knew rocks were thrown up around you, I expected to meet a band of ragged, half-frozen people. But when I come here I find you men; men like men everywhere; resembling the laboring men whom I meet in my own city. I say to you, as I have said to other bands, that I regard this as the most important act of your lives for many years. By this act you say you are determined to go up higher in civilization. Your Great Father hopes you will take your allotments early, and that you will make the land yield you support. It is clear to you that in a few years all means of subsistence except in the lake will be driven from you. The game in the woods will grow less, and the furs will grow less also. I doubt not that you have discovered that, that the furs and the game have been growing less and less for the last ten years. Ten years hence there will be very much less than now. Your Great Father, knowing this fact, has adopted this means to try to furnish you with other means of livelihood.

After taking your allotments, as the bishop has told you, you will become citizens like all other citizens, with all the rights and privileges that any citizen has. As I look into your faces I have no doubt you will succeed, and whatever shall come to you, you may be sure this commission, which has had so pleasant a negotiation with you,

will always remember you. Feeling as I do toward you and toward the work you have done, and so full of hope as I am regarding your future, I should myself implore the blessing of the Master of Life upon you, except that your bishop is here, whose special business it is to do that. If you follow the banner of the cross you carry now, you will be protected and preserved; and with these words I shall bid you a kindly good night.

FOURTH COUNCIL WITH GRAND PORTAGE INDIANS

GRAND MARAIS, MINN., *October 25, 1889.*

Joseph Caribou, head chief of the Grand Portage Indians, was present at this council.

Bishop Marty made an extended explanation of the act of Congress, and the chief mentioned afterwards signed.

The commissioners promised to endeavor to obtain money to enable a number of the Grand Portage Indians to visit the White Earth Reservation so they might determine whether they would take their allotments there.

JOSEPH CARIBOU. Why is it that I have to wait twenty-five years before I can sell my land?

The commissioners explained that this provision of the act of Congress was for the Indian's protection and benefit.

Council then adjourned.

427 FIRST COUNCIL WITH BOIS FORTS INDIANS

VERMILLION RESERVATION, *November 9, 1889.*

Present, Bishop Marty and Commissioner Whiting.

All the councils here were held on the second floor of the Government warehouse.

The council was called to order by Commissioner Whiting, followed by an invocation of the divine blessing by Bishop Marty.

Commissioner Whiting read and made an elaborate explanation of the act of Congress under which the commission proceeded, and after a few remarks by Bishop Marty the council was adjourned until afternoon.

AFTERNOON SESSION

Commissioner WHITING. The commission will be glad to listen to any questions you may wish to ask and will answer them.

AY-DAH-WAH-NE-KWAY-BE-NAIS. I wish to know if you have a copy of the treaty made in Washington. I was in Washington at the time.

Commissioner WHITING. What year?

AY-DAH-WAH-NE-KWAY-BE-NAIS. Eighteen hundred and sixty-five. I wish to know how much was given us as a reservation.

Bishop Marty read the section of the treaty which states the amount of land to be reserved for the Bois Forts Indians to be 100,000 acres.

AY-DAH-NE-KWAY-BE-NAIS. I can not understand "100,000 acres," but could understand it if given at length.

He was informed it was 12 miles square.

AY-DAH-NE-KWAY-BE-NAIS. The reason I speak in this way is because of what was told us by the commission this morning. We do not believe it for this reason: The Government at Washington promised us a tract of land 20 miles square. We were told that the lawmakers had fixed it in that way. We were disappointed; and that is the way the white man generally does—lies to us. I just state the facts as they are. I have not forgotten what was said to us. There were a great many promises made to us at that time. I was near the commissioner when he spoke to us, and there are a great many things that have not been fulfilled.

Bishop MARTY. That is exactly why the commission is here. I speak not only to the chiefs, but to all of you.

AY-DAH-NE-KWAY-BE-NAIS. We were told in Washington, "You are never to talk about this reservation or your lands again, because this is put in the treaty as a perpetual thing for you. If we are going to talk about anything in the future, we will sit as we are sitting now—together. There are a great many of my white children about in the country."

Bishop MARTY. This land does belong to you. We did not come to take it away but to make it secure for you. Each man is to get a patent for his own land. That is precisely the difference between the white man's title and the Indian's title. That is why I am so glad to be here to-day, to make sure that no one can ever come and take your land from you. Every man will have his home, and his children will have their homes, and you can all then hunt as well as before. Besides, you can take land at White Earth.

AY-DAH-NE-KWAY-BE-NAIS. I have some things to say. These persons who ceded before us ceded lands that did not belong to them. There was a portion of the land on Lake Superior that belonged to us and a portion of the land on the west, mentioned in the Pillagers' treaty of 1855. There is still a piece of land along Rainy Lake and another lake there which was not ceded. They told us it was not ceded and that we might consider that as our own. That is what we were told in Washington.

Bishop MARTY. It was probably said that you could consider it your own for hunting.

AY-DAH-NE-KWAY-BE-NAIS. The map was spread before us and we noticed very particularly all the lines. We were told we were to sit face to face with the Commissioner of Indian Affairs whenever we had anything to do with the Government. That is what I now fail to see. We were told there were a good many of his white children going about and not to listen to them.

Commissioner WHITING. The Great Father told us to have written down all that was said, so he might see and know whether we stated things truly to you. It was because in times past he found that when your chiefs went to Washington and made a treaty you did

not understand it and so became dissatisfied, and you had a right to be dissatisfied. And so he would make no more agreements with your chiefs alone or until you could all be seen together and have an opportunity to ask questions and understand it.

The Great Father has not sent us here to deprive you of one dollar's worth of land. Whatever land was given you by that
428 treaty in Washington you now have, and we will not disturb you in it. He only offers you the opportunity to take land each for yourselves, so each can build his own house and raise his own crops as white men do.

You must bear in mind that you are not asked to leave your homes. All the Great Father does is to give you a chance to join with the Mississippi Chippewas in this great benefit. So I ask you to look well to this matter and see that you make no mistakes, which are sometimes hard to correct.

Bishop MARTY. Congress has made a law that commissioners must go to the Indians on the reservations.

AY-DAH-NE-KWAY-BE-NAIS. That is a very good plan, to have everybody listen. I do not feel sure of this arrangement at all, on account of the words that were spoken by the commission. We were promised farmers, blacksmiths, etc., and we have had them; we were promised cattle, and have had them. I have had ten cattle, but they have died. Everything has been fulfilled in one respect.

Bishop MARTY. When I talked to the Indians at Red Lake, who have millions of acres of pine, and told them they should give a share to you, they said, "No; the Lake Superior Indians have sold everything they had, and have no more to give; and now we will not share with them." I told them the Great Spirit had made all the Chippewas, and that they were brothers, so those who were poor should be helped by the others; that it was their duty. And they slept over it, and the next morning they said "Yes." So I came with a glad heart to bring this good news.

AY-DAH-NE-KWAY-BE-NAIS. About the children who are now small, but will grow to be men and women; they get less.

Bishop MARTY. They will inherit the lands of their fathers.

AY-DAH-NE-KWAY-BE-NAIS. A call was made for every man to come. No inquiry was made as to whether he was a chief. It used to be only a call for the chiefs.

Bishop MARTY. Now every man is to take land and get money in his own hand.

AY-DAH-NE-KWAY-BE-NAIS. Under the circumstances we have not got together and discussed this matter yet. We wish time to do so, and if you will name the hour we will meet you again.

Bishop MARTY. To-morrow is Sunday, the Lord's day. When the Great Spirit created the world in six days, on the seventh he rested. And so now all men do the same, work six days and rest the seventh day, and should spend that day in hearing His word and singing His praises and in praying to Him. And so to-morrow morning at 10 o'clock I will have divine service, and those who wish can be

present. And then you can have a meeting afterwards by yourselves. And when you are through you may call us in.

Council then adjourned.

SECOND COUNCIL WITH BOIS FORTS INDIANS

VERMILLION RESERVATION, *November 10, 1889.*

Commissioner WHITING. The council is now open for business, and we are ready to hear anything you may have to say.

QUAY-CUH-CUM-IG. We wish to know what these goods, which we see in this loft here, were sent for, in the first place. We were told that we would be collected together and something else would be done for us after our annuities had expired.

Bishop MARTY. The Great Father thinks you are in need of the goods.

QUAY-CUH-CUM-IG. We were told that at the end of twenty years the Great Father would still take care of us if we behaved well, and we are at a loss to know why these goods were sent.

Bishop MARTY. You have behaved well, and therefore the Great Father sent the goods.

You have four years in which to take your lands in severalty, and then, if you do not, some one is sent to allot them to you. The only difference will be that you will not get the money then, if these propositions are not accepted by you. The Government wants the Indians all over the country settled.

QUAY-CUH-CUM-IG (addressing the Indians). I do not wish to throw obstacles in anyone's way, but I wish to have this understood. For my part, I understand it pretty thoroughly. We have been trying to come to one opinion, but have not yet. Shall we listen to the commissioners? I think we should, because we are ignorant and should not do anything against the interest of the Indians who are not here. We must look out for the interest of our bands. We must not listen to foolishness, but we ought to have our old men here, especially Mountain Traveler. He is the one by whom I have been guided. He has made up his mind long ago. Now I am going to speak to the commission.

I also implore the Master of Life to have pity on my words, as I am about to utter a few of my thoughts. When He put us on this world He did not put on us any curse of poverty. Nor did the Master of Life draw a distinction as to whether a man was white or black, or intend that one man should inflict cruelty on an-
429 other. This is just what I have been looking for— an expression of my thoughts. The persons who are standing up here with me have the same thoughts that I have. The reason I have not accepted any gratuity—it was a foolish idea—I thought there was not enough to go around, and I thought there was not enough of what was sent here to support me. There is one thought uppermost in my mind, and I think it is a thought well considered:

is it possible that men of your standing should come here and lay before us what you have; you [addressing Bishop Marty], as a great man and a bishop, that you should come here, in the fear of God, whom I fear myself, and tell us these things if they were not true? Here you can see my relatives; the amount of stories that has been told them, the amount of promises broken—certainly I should be one of those victims to any lies, but this is not so, but is for our benefit.

The words you have spoken as a commission please me. I accept those words for the reason that my children the last of my people, shall make it their home where they now reside. The reason that I accept no gratuity, the reason that I meddle not with any person's business outside of my reservation, is to guaranty to my children a home where I live. I do not wish to go to White Earth.

Bishop MARTY. The first thing necessary is that you and your children should have a home and money to buy what you need.

The next thing is to take the names of all the Chippewas of this band—men, women, and children. From this time you ought not to change your names any more, because the land will be allotted according to the names you now hand in. And so, when the money comes, it will be sent in according to these names, and in a certain man can not be found no one will get that money.

The chiefs must see that all those who belong here give in their names and ages for this roll; not only those now here, but also those absent. The children should retain their father's name and another name. In this way the child will inherit the property of the father. In this way also the name of the father will never die, but will go down to posterity for hundreds of years. If there is anything that troubles you do not hesitate to tell us, because we are your friends.

CAH-WAH-DISH-KE-WAY. I do not wish to say anything for or against what my nephew has said to you, but I wish to talk on another matter. I want to speak about these men who went to Washington; and I want to find out something. There is only that man who is lying down there (indicating Ay-dah-ne-kway-be-nais) who was in Washington. I was told when those men came back that there was a reservation made also at a place where I live now. The man who surveyed there told us there was a large tract of land there, but he has never purchased any land there yet. There is quite a tract of land there that nobody meddles with, and I think that it has never been ceded.

Bishop Marty read from the treaty of 1866 with the Bois Forts Indians the section reserving for them one township at the mouth of Deer Creek, besides the larger reservation of 100,000 acres, and said:

It was found in Washington that the treaty had not been quite complied with, and that is precisely the reason that it is now desired to give you a share with the other Chippewas in Minnesota. These lands you speak of are agriculture lands. You can take land there, but you can not get as much as you can inside the reservation. You can get on the outside only 160 acres to the family.

CHARLES SUCKER. We are a goodly number at this place. There are several chiefs residing here. I say this in explanation of this fact, that those residing here love this place with all their hearts; they can not part with this section of the country. I wish to state on behalf of those residing here that we do not wish to go to White Earth. We wish our allotments to be made in this country. I have asked the young men—those who are married lately, those who are young—if they did not wish to go to White Earth, and they say they do not.

Bishop MARTY. When we know the number who wish to remain here, they will all receive equal shares of the land here, according to their status, and whatever other land they receive they will have to take on the Net Lake Reservation if they prefer not to go to White Earth. Our duty is to give each what he is entitled to, and we are trying to fulfill your wishes as much as possible.

The Indian pre-emption law was then explained.

AY-DAH-WAH-NE-KWAY-BE-NAIS. We can not say that we are of one mind yet. These people who have just talked rather frightened us. I also am on no reservation where I live. I was not there at the time the reservation was surveyed. Before the reservation was surveyed, the place where I am living is the place where the house that it was stipulated should be built by the Government—one of them—was erected right where I live.

Bishop MARTY. What corner on this map is this?

INTERPRETER. It is not at Long Lake, but Pelican Lake. It is 3 miles from the reservation line where his house is built.

Commission WHITING. It must have been some mistake of
430 the surveyor. I do not know how it happened. We can only say that if you have made a home there you will not lose it.

AY-DAH-WAH-NE-KWAY-BE-NAIS. The treaty stipulations were strictly complied with in some respects. The cattle and the houses were delivered there at that point.

Bishop MARTY. All these things will be settled when we come back.

Council then adjourned.

THIRD COUNCIL WITH BOIS FORTS INDIANS

VERMILLION RESERVATION, *November 11, 1889.*

Census-taker Dufauld stated that the messenger sent after "Mountain Traveler" had returned and brought word that on account of the ice in the rivers it had been impossible to reach the chief, but that his son was here and would speak for his father.

GAH-WAH-BISH-KE-WAY. I implore the Master of Life, and that He may be pleased to listen to the words I have to say.

I do not wish to travel a great distance after this that is now promised to me and my children—my annuities—nor do our women and children. No white man would condescend to allow his wife or children to go so far for what would be due them.

We do not wish to have such a school as there is here for our children, for those whose minds you wish improved with knowledge. We wish to have a school where the English language shall be taught, so they can improve. And we wish to have a blacksmith at Net Lake. We have now 50 miles to travel to have anything done.

Bishop MARTY. It is not the will of the Government that the Indians should travel so much. They ought to spend their time at home improving their farms. If you have any wagons or implements to repair, of course there should be a man right there to do it. So a part of that money can be spent for a blacksmith near you. The rule of the Government is that the English language shall be taught in all the schools.

Commissioner WHITING. I want to tell you how we do about blacksmiths and carpenters and all the men that do the work. We send one of our bright boys to the blacksmith and let him help the blacksmith and learn the work, and then he can do it for us. This is what the Great Father hopes you will do, and then you will, after a few years, not have to ask the white man for anything. It is a reasonable request on your part, and we certainly shall make it to the Great Father.

PE-TAH-WAH-CUM-E-GWABE. What you come here after we look at with favor, but we are afraid of forgetting something, so we are going at it by degrees. This is no small thing, but business of magnitude. We are progressing slowly but surely.

TAY-BWAY-WAIN-DUNG. About Net Lake, where I come from—there is where I was born—there is any amount of rice there which never fails me. We wish the commissioners to use their influence so that no dam shall ever be built below that will overflow what we depend upon for a subsistence. There is a place where we can take all the timber to—the Little Forks of the Rainy Lake River. I wish to state that the whites have no respect for the reservation whatever. When the Indians were here three years ago, the last time we received anything from the Government, we told them there was a road going through the reservation, where the timber is piled up and going to waste, and, although we made a complaint to the agent, nothing has ever been done about it.

Commissioner WHITING. Was the agent ever up there himself?

TAY-BWAY-WAIN-DUNG. Never. There is another creek inside the reservation; that is where the lumbermen come without permission and help themselves to all the hay there.

Bishop MARTY. It is to stop precisely such work that we are here.

Commissioner WHITING. If any such dams are built, it will be the duty of the Government to remove them.

TAY-BWAY-WAIN-DUNG. You can not imagine how the white men help themselves to anything on the reservation. Even our canoes they take from us without asking.

Commissioner WHITING. After you become citizens all that will be stopped.

TAY-BWAY-WAIN-DUNG. The agent just hurries here and hurries right back, without giving us any attention. It would take me all day to put in complaints that can be substantiated.

The chiefs who went to Washington and concluded a treaty with the Government saw that arrangement fulfilled only once, when they went to the Fond du Lac for a payment. After that it looked as if something was being stretched out, and the end failed to reach us. They told us in Washington that they would clothe these men here so they would be proud of their clothes.

GAH-WAH-BISH-KE-WAY. We have come to an understanding, and you can not imagine how proud I will feel when we see these things fulfilled. And you, as our bishop, we know that you will not disappoint us.

Council then adjourned until November 12, 1889.

431 FOURTH COUNCIL WITH BOIS FORTS INDIANS

VERMILLION RESERVATION, *November 12, 1889.*

TAY-BWAY-WAIN-DUNG. We wish to know about the children who are on the eve of being born; what is to become of them and what interest or benefit shall they receive if they are not enrolled? I wish an answer.

Bishop MARTY. The act of Congress says the present enrollment shall be final.

GWH-WAH-BISH-KE-WAY. I have come with a few of the young men who belong to where I do, and they are fair representatives of their chiefs. There is not an Indian but what knows me. My name is "The one with the white flesh or skin." You say you are the representatives of the Great Father. Now, I have a word I want to say to the Great Father through you, and I hope you will deliver that word. I wish to affirm that my section of the country where I live was not represented during this session of 1866, and I wish my Great Father to understand that. I will comply with the arrangement personally and let the others give an expression of their own feeling when they come.

PE-TAH-WAH-CUM-E-GWABE. I wish to state to you about Pelican Lake and to request that when the allotments are made no fire water be allowed to go there.

CHARLES SUCKER. It pleases us of the Vermillion Reservation to hear what has been said by the commissioners. We wish this request never to be lost sight of; we wish the school and the blacksmith shop established here to be permanent.

We request that the oxen and horses that are doing the work here, which are required for the support of our children, be kept here permanently. We have now only one pair of horses. In case there is anything destroyed or in case of the death of one of the employes, we wish the Great Father to substitute another in place of that which is lost.

O-ge-mah-wub handed to Commissioner Whiting a printed certificate, signed by W. R. Durfee, United States Indian Agent, and said:

"I am living at a certain place where I was born. I was raised there, and I wish to retain that place. I do not say that of my own volition, because the whites who gave me that paper told me to defend my rights, and if there is anything wrong the man who gave me that command is wrong, not I."

Bishop Marty directed the interpreter to tell the last speaker that his selection of land came under the Indian pre-emption law, and that his holding of that land will not interfere with his rights to annuities; which the interpreter did.

O-GE-MAH-WUB. I know about this Indian pre-emption.

Bishop MARTY. When we come back to make the allotments all these cases will be regulated according to law, after which we will make report to the President, and he will issue the patents which will give you the same right that the white man has, and make you a citizen of the State and the United States.

O-GE-MAH-WUB. We thank you.

Interpreter Beaulieu then addressed the Indians in Chippewa, after which council adjourned until afternoon.

Council convened in the afternoon and was declared again open for business.

TAY-BWAY-WAIN-DUNG. At what time do you suppose the survey will be made?

Commissioner WHITING. Next spring, we suppose, although it is under the direction of the Land Department.

TAY-BWAY-WAIN-DUNG. We do not understand the English language, and would like to have a man connected with the survey who can speak our tongue.

Commissioner WHITING. We will recommend it. These surveyors will be obliged to employ some help here, and those they employ will, of course, speak your language.

TAY-BWAY-WAIN-DUNG. We are ready to proceed to business.

He then touched the pen handed him by the commissioners, and was followed by the other chiefs and the members of their respective bands.

FIRST COUNCIL WITH FOND DU LAC INDIANS

FOND DU LAC RESERVATION, *November 18, 1889.*

Capt. M. A. LEARY, Indian agent. The council will please come to order.

Last winter an act of Congress authorized the President to appoint a commission to treat with the Chippewa Indians of the State of Minnesota in regard to certain matters in which they are interested. The members of the commission appointed by the President of the United States are now here to present these matters to you. I have the pleasure of introducing to you these distinguished

432 gentlemen, Hon. Henry M. Rice, of the State of Minnesota; Rt. Rev. Martin Marty, Catholic Bishop of Dakota, and Hon. J. B. Whiting, of the State of Wisconsin.

Mr. RICE. Friends, as your agent has just told you, we were sent here by the President of the United States to lay before you certain proposals for your consideration. We were directed by the President to have them read and fully explained.

We were also directed to listen to whatever you might have to say, to any requests you might have to make, or to any complaints. It is the wish of the Government that you shall take time to fully consider all the propositions, and if they are not for your benefit, if you do not think so, not to accept them. It is a matter for you to consider, as you are more interested than anyone else.

Commissioner Whiting then commenced to read the act of Congress referred to, it being carefully interpreted, sentence by sentence.

Mr. RICE. My friends, you have heard read the propositions. They are long and it will not be surprising if you do not fully comprehend them at first. They are of interest to each one of you, not only those now living, but to those who may come after you; and they are of so much importance that it is necessary that each one shall give thoughtful consideration to them.

At our next meeting it will be our duty to explain to you the act of Congress in detail.

As all of the Indians had not arrived, an adjournment was taken.

SECOND COUNCIL WITH FOND DU LAC INDIANS

NOVEMBER 19, 1889.

Mr. RICE. Our visit to you is one of business purely, and concerns you more than all others. We will endeavor to put before you what has been done, and the true condition of your affairs.

In 1854, in a treaty at La Pointe, you relinquished your right to the lands west of this to the Chippewas of the Mississippi. Consequently you have no rights in that entire region. Prior to that time all the lands west and all upon Lake Superior were owned by you in common, but you then gave up your rights to the Indians of the West, and the Chippewas of the Mississippi relinquished their right to the land here, and also to all lands upon streams emptying into Lake Superior.

At that time the Mississippi Indians relinquished to you all the benefits arising from annuties to be received under that treaty. They received nothing, and at that time it was supposed that you had the best of the bargain; but you see now how little man knows of the future. The lands you gave to them, which you ceded, contained mostly pine, which at that time was worthless. There was no demand for pine, and it was not considered of any value, so it was supposed you had the advantage. The great emigration of the whites into the country changed the face of things. The pine lands, once so valueless, have become of great importance. The Chippewas of the Mississippi are now rich in pine lands and you are poor. The Red

Lake Reservation is more than thirty time as large as this one, and in that reservation you have never claimed an interest.

That you might all be provided for hereafter, as you are all of the great family of Chippewas, the Government requested these Indians to put in all they had and to share it with you. That was our reason for first going to Red Lake, knowing that if they refused, our work was ended, as we would not then have paid a visit to you or any other bands. But they very generously consented to divide what they had. We were there some time, and it took a great deal of consultation, but in the end they generously consented to share the proceeds of their lands with you, so that you would hereafter be placed on the same footing with them.

We then visited the White Earth Indians. They own a very large reservation north of Leech Lake, of immensely fine and valuable pine, of which none has been cut and upon which no one lives. They not only put that in, but also four townships of pine which have never been disturbed. So they consented to put back as they were 35 years ago, and to share alike hereafter with you.

Many of you know the situation of the lands belonging to the Pillagers, and the valuable pine they own. They also consented to share equally with you. Every band of Chippewas within the State of Minnesota has been visited, and all have acceded to the request made by the Government.

Many of you are doubtless familiar with the White Earth country. You know it is one of the best farming regions in the North, and the Indians there have consented that if any of you wish to go there you may do so, and share the land with them. But if you prefer to remain here you can.

It is pleasant to see so many intelligent men before us, and we know it is not necessary to use any argument with you to get you to accept these negotiations, but it is all left to your judgment. You must act for yourselves, without reference to anyone else.

433 AFTERNOON SESSION

NAH-GAH-NUP. We wish to have an interpreter of our own so as to be sure that what is said is correct.

PAUL H. BEAULIEU (interpreter to the commission). I would respectfully suggest that they pick out their own interpreter and allow him to interpret.

Mr. RICE. Your request is granted and you are at liberty to select whichever interpreter you please. You may take one or more, so one may correct another if necessary.

The Indians selected as interpreter Frank Blatchford, United States interpreter, La Pointe Agency.

Nah-gah-nup, head chief (said to be over ninety years of age) gave a very long and disconnected account of his understanding of former treaties, in relation to the boundary lines, the basis of it appearing to be the great injustice done in the setting aside by the Government of the Fond du Lac Reservation, by which the treaty lines were en-

tirely disregarded, not embracing one-half the area they are actually entitled to.

PAUL H. BEAULIEU. The lines he tries to describe are so indefinite that I can not make any one understand it intelligently.

FRANK BLATCHFORD (United States interpreter). No one can tell about those lines except the old man (Nah-gah-nup).

JAMES I. COFFEE (indicating on map). Here is an island at Knife Portage which is intended as a landmark; but they concluded afterwards that that island might possibly float away, so as a landmark they took a spring on the river shore and taking a line from that spring due south until it came to a point where it intersected Snake River.

JAMES I. COFFEE. Nah-gah-nup says there is a strip of country about one mile wide, one corner of it starting from the old trading post there at Fond du Lac, going up the river due west one mile; and that strip of country runs due south one mile wide until it intersects the old treaty line, a line that had been established by some former treaty.

That parcel of land was borrowed, but never has been paid for, in 1837 or 1839. That was probably done to bring the State line within the town line.

NAH-GAH-NUP. Agent Hayes told me that I should never be defrauded of that land or lose the value of it, and I had a perfect understanding with Mr. Durfee about it when the question came up.

It was kind of settled in my mind that we still owned that, after the examination of the Indian agent, Durfee told me that the land was intact and remained unpaid for. That line was designed at the last session in 1854 as the Minnesota lines, and that was the line that was followed during those negotiations. By putting the line farther east, to define the Wisconsin line—that remains unpaid for, and was not included in the negotiation of 1853.

Mr. RICE. My friends, we do not wish you to misunderstand our mission here. We did not come to make a treaty. The Government did differently in this case than it had ever done before.

The Congress of the United States, with the approval of the President, sent you a proposition. We are not authorized to change one word in that paper.

Council adjourned.

THIRD COUNCIL WITH FOND DU LAC INDIANS

NOVEMBER 20, 1889.

Mr. RICE. We are now ready to listen to anything you may have to say.

ANTOINE NAH-GAH NUP (after addressing the Indians in Chippewa). At the time of the negotiations of 1854 you (Mr. Rice) sat facing the old man (Nah-gah-nup) as you are sitting now. At about the time the negotiations were a failure, you expressed to him

the wish that they should succeed, and that he ought to accept them. You said to the old gentleman then, "Let the negotiations transpire as they are; accept the whole proposal made to you; in time to come, if one of the promises made under these negotiations is not fulfilled, we will get together and see that the whole thing is righted according to this understanding."

Now, the time has arrived; you have heard what the old gentleman has said. If there are any promises made not fulfilled by the Government, now is the time for you to come to an understanding. It is very hard for a person who has not the benefit of education, who can not write, to state on paper his own feelings. But after he understands the thing in his own mind, it is hard for him to alter his understanding of it.

Mr. RICE. My friends, if I should tell you all in connection with the events that have occurred to your people since my first knowledge of you it would take a long time.

I will tell your young men something that occurred long before you were born. In 1842, forty-seven years ago, Robert Stewart,
434 on the part of the Government, made a treaty with your people at La Pointe. I want the old chief to understand this, so that if necessary he can correct me. I can not tell, of course, what was said at that time, as I was not present, but I remember very well what this old chief and the other men at that time told me, who were present when the treaty was made. Mr. Blatchford, who was present at the treaty of 1854, also told me what occurred. By that former treaty you ceded all the country you owned south of Lake Superior absolutely to the Government. You had not a place left you could call your own and upon which you could sleep at night.

Nah-gah-nup and the other old men who were then living were deceived. They were told that all the Government wanted was the mineral; that they would never be disturbed. But after the treaty was ratified and as soon as the white man came in he wanted not only the iron and the copper, but he wanted the land itself. They not only wanted it but they took it, and there was not a place of all that vast territory which you had sold upon which there was or could be a school, a carpenter, or a blacksmith upon your own land.

Forty-two years ago I was requested by the President, whose medal Nah-gah-nup wears, to go over to see the Chippewas. I came up the St. Croix and the Brule, and there I met Nah-gah-nup and had an interview with him. He told me then how he had been deceived; how poor they were; that they had no land they could call their own upon which to live. He begged of me to help them. I made inquiries and concluded that all he said was true and gave my promise of assistance, if it was in my power. For seven years I worked hard in trying to furnish a home for the Chippewas of Lake Superior. That brought about the treaty of 1854—thirty-five years ago. By that treaty the Government gave back to the Indians their various reservations—one at L'Anse and at Lac De Flambeau, Bad

River, Red Cliff, Lac Court Orielles, and this reservation, and a small one at the head of Madeleine Island.

Two or three or four years before that treaty was made the Government had furnished an appropriation to remove you all beyond the Mississippi River. The agent had spent a great deal of money and got a few over a short distance towards Crow Wing, but they all came back. That was Agent Watrons. So in 1854 I came through here and also worked in Washington until I had a commission appointed; and I came to La Pointe, to see your wishes gratified, so you might remain where you were, and then those reservations were set aside for you. We found there was a great deal of money due you, under former treaties, for schools, blacksmiths, farmers, etc., because you had no homes where these improvements could be made.

We have been at work a long time, and a few years ago I got the Government to acknowledge the amount of money due you. It was $118,000; it is probably more now. That money is due you, and we hope with the help of the friends we have that we will be able very soon to have it paid to you. This is only my opinion. All we say is that we will do all we can, but we do not wish to make a single promise that will not be fulfilled.

Our mission here now is to tender you proposals which will give you homes for yourselves and your children and your grandchildren, homes from which you can not be removed and in which you can not be disturbed. Not only that, but to tender you money.

I find you without a blacksmith, or carpenter, or physician. Your young men are anxious and willing to work, but you have to go so far and it is so uncertain that it looks discouraging. If you wish to buy a board you have to go to the white man for it, although you have plenty of pine. What you need is a mill. If you have horses and cattle, you must have hid them before we got here, as we did not see them.

Your great obstacle has been the want of permanency, the Government not knowing whether it would permit you to remain here or not, owing to the desire of the white people to have you moved. The Government did not desire to have you make improvements. Your missionaries did not know whether to bring in teachers, and you were for that reason not aided in that way.

NAH-GAH-NUP. My friend, I feel very much easier since you have made that explanation, for the benefit of those living here with me—my children, my grandchildren, and those who do not know anything about this transaction.

ANTOINE NAH-GAH-NUP. It is something like a man being in the dark and when he sees the morning light breaking. That is the way I view this thing.

NAH-GAH-NUP. I think I may never see you hereafter, and I wish to state what my Great Father, the one I paid a visit to, told me. I shook hands with him, and I made known the cause of my visit to Washington. "I have heard," the President told me, "my child,

how you have suffered by traveling a long distance to pay me this visit." He told me: "I wish you to take courage and bear in mind that it is essential for you to be a good friend to the whites." The President told me: "If you listen to the advice I give you, I promise you I will support and take care of the Indians as long as I live." He was holding my hand when he told me that.

I wish you to ask the question of the friends who have
435 camped near us whether I have been their friend. This is what I wish: If any time I should die that my child may be my successor. He will take my place and stand before the representatives of the Government as I stand now.

And, my friend (Mr. Rice), that is the way I look upon this matter. You have a great name; you have a good name. I don't know whether my name amounts to anything or not; I can not tell. I have given you a history of what the Great Father told me. The President's hand and mine were locked together. Between the two hands there was a medal. He said that the pipes should be crossed, and that I and the white man should smoke the pipe in peace together. That is what transpired between me and the Great Father. He was a good man.

ANTOINE NAH-GAH-NUP. We wish the agent to listen to what is said.

Mr. RICE. That is the reason he is here.

NAH-GAH-NUP. This man [indicating James I. Coffee] will make known to you what we wish, and this interpreter is to stop short. This man will express it all in English for your satisfaction.

JAMES I. COFFEE. This young man, the last speaker, wished to express this matter in this way: That you (Mr. Rice) and the old chief, while here face to face, knowing all about the old treaties, should look over the matter and put it in such shape that it can be followed up and placed before the authorities in Washington so they can see it in the same light that the Indians understood it at the time of the treaty.

PAUL H. BEAULIEU. And cause an investigation to be made.

JAMES I. COFFEE. Yes, sir.

Mr. RICE. As soon as this record is printed we will have copies sent you. That carries out the President's instructions to us. We all, the agent, the commissioners, and the interpreters, will witness it. I have at home a printed copy of the report of the department in regard to the $118,000 arrearages, which I will send over to you.

Bishop MARTY. I think we have now come to understand sufficiently about the old matters which are pending between the United States and the Chippewa Indians. But I think you have a way in which you can succeed yourselves in having these matters settled. I tell the Chippewas now, as I have for fourteen years told the Sioux, that as long as you stand before Congress as Indians you will always be considered as asking for something which is to be taken from the white man. You must become citizens; you must become the equals of the white man, having the same rights that he has. The white

man, when he has no ballot, has no way of defending himself. The legislatures of the States and the Congress of the United States are made up of men elected in the different districts. When the men in a certain district want a certain thing, they elect to the legislature or to Congress one who will speak in their names, and ask for it and insist upon having it. He does not go there as a begger, but as the equal of all other members of the body.

When you take lands in severalty in accordance with this act of Congress, when you touch the pen to this treaty, you become citizens. You will then have the right to vote. You can send men to the legislature of this State and to the Congress of the United States to speak in your name and vindicate your rights, not only before Congress, but in all the departments. So as soon as you have taken lands in severalty you can vote for a man in this district.

In the way I have indicated you can succeed, and in it there can be no failure, and especially as long as Mr. Rice lives, because your representative in Washington can always have him as a witness, a counselor, and an adviser.

ANTOINE-NAH-GAH-NUP. It is our wish that what we represented yesterday about the loss of the south shore of Lake Superior should be investigated thoroughly; that the lands which were ceded at that time should be made known to us; that the size of our reservation, according to our understanding, should be thoroughly investigated, because we think we have never ceded what is now marked out as ceded. And also about the north shore, and also the amount of land given to the mixed bloods at that time, that that should be investigated, and a statement made to us of the amount of our reservation which is not used up in allotments. And also on the Mesaba Range, as far as Pigeon River, containing all the waters that flow from this direction; that is ours. We think that has never been ceded by us. We should like a thorough investigation made regarding the pine that has been cut on this reservation which has not been accounted for. It did not belong to the men who are sawing that pine at all. We should like to see all the unsettled business in connection with that pine adjudicated. About the line of the railroads, the Northern Pacific running through our country, and the St. Paul and Duluth, and also the Duluth and Winnipeg. These have been the cause of great damage. It has set most of the reservation on fire and made a tremendous destruction of the timber on the reservation where they pass, and it is necessary that all these should be adjudicated for our benefit.

Another thing: The booms made in the river, which we used to have the benefit of; it is now all taken by the whites. They
436 take the rock from the reservation also, to use in erecting their booms. They have their boom houses also, used for the benefit of those driving logs and attending the booms, which are situated on the reservation. We have not received a penny in consideration of all these things. They are utilizing a great deal of sand for leveling and ballasting the railroad, etc., and that is all

taken beyond the right of way on the reservation. Then there is a creek which has been dammed, which is greatly to the detriment of the reservation, because the fish can not go up to the various lakes, which is a great loss to us. The building of the dam overflows a great section of country and destroys a great deal of hay which ought to be utilized by ourselves.

We wish to get the payment for all these things as soon as possible in the near future.

We do not wish to be waiting forever for the adjudication of these claims. You will please adjourn now, so as to enable you to go to dinner.

A recess was then taken to 2 p. m.

AFTERNOON SESSION

ANTOIN[illegible]-NAH-GAH-NUP. We were making some explanations before dinner. What we wish to impress upon the commission is this: Where these mills are situated, according to our understanding during past negotiations, is inside our reservation. Below here there is an island which the Indians claim should be the east line of the reservation, and in following that understanding, those mills are within our reservation; and about half the town is within the Indian reservation—nearly half the town.

There was an island right about Knife Portage which we agreed upon as the starting point.

Mr. RICE. Whereabouts on the island—at the end or in the middle of it?

JAMES I. COFFEE. There is a spring opposite this island at the head of Knife Portage; this spring was designated as the starting point of the boundaries in that treaty.

ANTOINE-NAH-GAH-NUP. I do not wish to say anything opposite to the chief who has given you his understanding of the lines of the cession under the treaty of 1854, but the lines of that cession extended to the State line of the State of Minnesota. In extending it there has been a strip of land not ceded between the designated points, and to make the line straight for the Wisconsin line there was a tract of land in there which has never been ceded, in accordance with our understanding.

We wish that fully investigated, and if anything accrues for our benefit we wish to get it. If we had received any benefits under that cession we should never have said a word about it.

NAH-GAH-NUP. From the starting point designated, south to the line of the old cession; then in a direct line west to the forks of the Snake River; then in a direct line to the Savannah River. Those are the points designated in that treaty as the boundaries of this reservation. Hole-in-the-Day then took a pencil, and he made a mark defining this line; and I spoke to Hole-in-the-Day, and said, "Look out how you are making those lines, because you will be robbing your friends of the Lake Superior country." From the

mouth of the Savannah River it went to Embarrass River; then up said river to its head. Then following the divide to the west of the Mississippi and the St. Louis waters as far as they used to claim when we owned the land in common.

Now we are coming to an understanding about these lines. The Bois Forts understand all this perfectly. Then from there in a straight line, from where the Bois Forts Indians own, in a direct line to Pigeon River, the international boundary line. Then we made a dividing line between the Grand Portage Indians and ourselves at a place where there are two islands near together on the shore. We used to follow those rivers at the time we used to hunt beavers. It was understood that the Grand Portage Indians should own east of there, and the Fond du Lac Indians west of where those two islands come in.

From those two islands along the shore of Lake Superior on the north shore around the Fond du Lac Bay, down the south shore until you reach Iron River; thence up Iron River to a certain point where there is a certain kind of evergreen tree growing; and from there to towards the head of Iron River, in a direct line west up to the line of the old cession; and then to the place of beginning.

Those were the possessions of the Fond du Lac Indians and the Grand Portage Indians, those who used to be called the Lake Superior Indians; there is where the dividing line was, and each had his own possessions, east and west. And then all the waters running north, and waters that run into the St. Louis, all the waters running towards the British lines—it was understood that we were to be supplied from those waters and from the waters of Lake Superior also. And Mr. Gilbert asked me, "What do you want to do with all the land here you are designating for your possessions?" And my reply was, "My young men wish to hunt all over that section of country, because it is their hunting ground." The southern portion of our dominions are for hunting big game, like deer; the northern portion was to hunt furs. Mr. Gilbert told me, "That shall be granted to you; you shall have it."

437 And I asked one of the officials there in Washington if they had the treaty; if he knew where the line was. He took the map, and of course he understood where the lines were after looking at the map, although he had never been here before. Turn to a place where it is mentioned about Es-com-au-conig; that is a place also mentioned; it is called "Artichoke" in English.

ANTOINE-NAH-GAH-NUP (examining map). This large lake here, on the north side of the (St. Louis) river, from here—northeast—that is the point we claim was within the reservation.

At that time there were no surveys here, and we did not know how the lines would run. It was only a point designated that we wished to be inside of the reservation. But the person who surveyed this reservation fixed it according to his own desires.

From the Mesaba Range to the White Face River has never been designated in negotiations with our chiefs here, and that we claim as never having been ceded.

I never meddle with any of the Indian possessions, but only speak of what we think is our own reservation.

The man who wrote this in the treaty book was not the man who made this reservation.

ANTOINE-NAH-GAH-NUP. We thought this was the propitious time, while Mr. Rice was here; and also your interpreter, Paul Beaulieu, has never known how these reservations are set apart, and about the consideration for those cessions. We have received nothing for all that has been taken, and now is the proper time to discuss the matter, while we are all together. We sent for Paul Beaulieu a few years ago, and he said, "How is it that your reservation is so small now? The understanding was that your reservation should be larger; it even gave you the privilege of going clear to Lake Superior." Your interpreter, now here, promulgated that at that time.

PAUL H. BEAULIEU. They say that I told them, "You have lands enough reserved on your reservation to make another treaty hereafter."

NAH-GAH-NUP. We do not want to impose upon any one's possessions. We only want to know what is ours, and how the whole matter stands, and while you [Mr. Rice] and I are here it is right to designate how we understand it.

There was a man who started from here; it was a close relative of mine. He and I went to Washington. George Morrison was there at the time also. At that time George Morrison was with the party. When they came back they had a map on cloth, and we found this reservation had been laid out on the poorest piece of land that we had at this place. I went there for no purpose myself. Those other Indians were the ones who entered into some arrangement of which I knew nothing. I protested against the doing of the Indians after they came back. I said: "My friends and relatives, you ought to have notified me before you entered into any such arrangement in Washington, but we trust to the generosity of our Great Father that in time if there has been any mistake made it shall be rectified in the future." I was then in the State of Wisconsin. I was collecting money from relatives who are there, to see if I could not better their condition by representing to the Government what had been done. What should I hear after that? I understood that all the land they had there had been ceded. There are some men here who know of that transaction. I told my son I understood that there was to be a removal of the Indians that year. There was no removal that we ever consented to, and I told my son, "Let us return and remain where we are permanently," and we returned. I said: "The time will come when I will meet men that I can talk to," and the time has arrived.

Now, my friends, we have lit the candle; it is still burning, and it sheds light. My heart will feel lighter hereafter. My old friend, the White Rice, is here. Another friend that I respect very much, and our other friend from Wisconsin. I think your investigation will throw light on the subject. That is all.

I let the Government have a piece of land to allot to persons, giving them 80 acres each.

I heard a report here that any person intermarried with any of the Indian or mixed-blood women on this reservation should not be entitled to any land; that whenever a woman married a white man, she became a white woman, and had no business on the reservation; that is the way we were told. There is a thing that I cannot comply with. My heart still beats for my children. I can not deprive them of any right to which they are entitled. I can not bring myself to that level to deny those who call upon me for their rights. That is the feeling that I entertain towards the women here, belonging to our bands, who have married white men; they have married for love. That is the way I feel—as I have expressed myself. If a man should tell me, "Part with the woman you are married with," I should not like it very much, because I am affectionate towards my wife, and I do not believe that she loses any right, and I do not believe any of the women lose any rights by marrying a white man.

The white man is very powerful; he enacts laws to suit himself and then he puts them into force, but suppose there was a trial of
438 strength in that matter, and I should oppose such separation, who would come out ahead? I think I would, because that is common sense.

Bishop MARTY. Your rights are protected. Your position is right.

NAH-GAH-NUP. I have given some of my children here some land. It looks to me as if I was losing my grip on that land, but I do not believe I am losing hold of any of their selections.

Bishop MARTY. Certainly you are not.

NAH-GAH-NUP. These young men, my children, and I, have been raised where I am, and we will rest together, as it were. Sometimes our young men are ignorant. The white man will come to them, saying, "You have a piece of paper that is worth something, and I want to buy it of you." And the Indian says, "Well, take it; I will sell it to you." The Indian does not know the value of it.

You see I am an old man. I have been working at this for a long time. I began it during the year of the war of the Sacs and Foxes, when they fought with the Americans. There was a woman who was living here in this section of country who was married to Mr. Cotay. He showed me a paper, and I sent for another paper of that kind. That paper gave me a great deal of information, and lightened my heart. That paper was promulgated amongst the different bands where we have villages, and there are a great many who accept the precepts of that book [meaning the prayerbook].

That is the reason that I hope my young men will feel I have omitted nothing for their benefit, and that is why I ask for a priest

to remain among us, and I think my young men ought to appreciate my motives. So, if you will comply with my request our young men will be very attentive and our children will progress. All those living here are in favor of this, and will take hold as they should and try to make it a success. There is a little house built there, and whenever any one wants to go to prayer he can go. I am getting a little cold.

Bishop MARTY. We will attend to one thing after another. The first thing is to become citizens by taking up land, and then you can establish your claims before the proper court. The court will appoint some one to investigate their claims, and to adjudicate according to the evidence. By accepting this treaty you do not give up any of your rights, but establish a foundation upon which you can proceed to get your claims, and if anything accrues from them it is yours.

Mr. RICE. When we come to take the roll or census we wish you all to meet, and no one will be ruled out unless you do it yourselves. You will have whatever belongs to you, like the white man, wherever you may go.

ANTOINE NAH-GAH-NUP. We wish this matter should not end to-day. We wish for a little further consideration, and that this council should convene also to-morrow. Look at the arrangement made over thirty years ago—something has come up because it was done too hastily. We wish to gather in council again among ourselves.

Council then adjourned.

FOURTH COUNCIL WITH FOND DU LAC INDIANS

NOVEMBER 21, 1889.

Commissioner WHITING. We are ready to listen to anything you may desire to say.

GON-GE-KA-MI-GONS. I understood you that our reservation was about 100,000 acres, and that the agricultural lands, under the act of Congress you bring, should be sold for $1.25 per acre and the pine lands not less than $3 per thousand feet. How much land will be sold at this place? And you say that five cents on a dollar interest will be given. We think that will be a great help for the people here. They say we are about 700 here, and I will not dispute the assertion, but I don't think we are that number. There was evidently a great mistake in the old negotiations, but you have come with an explanation of it through which we can see somewhat.

NAH-GAH-NUP. I am talking about the amount of land that was given to the mixed-bloods—80 acres each—in accordance with the treaty in 1854.

Old Shing-wok stated that as he was old he could not work, but must depend on his fish, and said whenever he wanted fish he went to the lake, and he mentioned Sandy River as his fishing-ground. When the reservation was set apart and they took their allotments away from here, they put them over at Sandy River. "This is an-

other thing I wish to go on the journal about old Shing-wok and his fishing-ground [addressing the Chippewas]. I am addressing you about the way I understood the old negotiations and about our division of property with the Lake Superior Indians. It was well understood between us and Hole-in-the-day what should be done."

(The interpreter stated that the old chief was talking in an unintelligible way.)

John Cadotte then addressed the Indians in Chippewa, in favor of the treaty.

Adjourned.

439 At the afternoon session James I. Coffee addressed the Indians in Chippewa, being followed in a speech to them by Julius Cadotte.

PAUL H. BEAULIEU. Are the mixed-bloods at liberty to ask questions?

Mr. RICE. Just as much as any one. We are glad to hear from them.

MICHEL DUFAULD. I wish to say a few words to the commissioners. I, who am called a half-breed or mixed-blood, have always suffered from poverty. On each side of me I can see riches and wealth. There has not been an occasion that I can remember when I have been called upon as a half-breed to deliberate in the councils of the Chippewas, hence I have had no word to say.

I, for one, have considered the bill you have presented to us. That bill shows that it is intended for our good. It is mercy that is shown us for our poverty; I, for one, as a mixed-blood, do not want this snatched away from me. I shall hold on to the proposition and accept it. Can it be possible that the President and the Government of the United States should select one that we call our father, the bishop; also such men as you gentlemen are, whom we know by reputation, to mislead us, and say, "This is for your benefit," when it is not so? It can not be possible; we can not believe it.

The mixed-bloods have come to an understanding among themselves, and they are now all ready to accept the propositions made to them by the Government. We leave this to the decision of the commissioners—where shall we begin this arrangement? Is it left for this man or that man to begin, or shall it be left to the chiefs and headmen to begin?

Mr. RICE. Some of you may not know that in the treaty of 1847, which was made here at Fond du Lac, it was stipulated, at the request of your venerable old chief, that the half-breeds should be considered as Chippewas, and receive the same rights, title, and interest as the Indians themselves.

It is best, however, for you all to act as one man, as one people, and I am sure none of you will ever or ever have forgotten the respect which you owe to your old and venerable chief. In olden times he was always your friend. He has but a short time to remain, and I know you will continue to respect him. You know what has been customary heretofore in leading off in a matter of this kind. After that there are no orders; come as you please.

Nah-gah-nup then addressed the Indians, telling them that he never kept anything to himself, but was always willing to share with his people, and then turning to the commissioners, said:

My friend (Mr. Rice), what you have spoken is the truth, and what my children have spoken is also the truth. It is left optional with the young men to accept or reject these propositions.

Bishop MARTY. But you seem to labor under the impression that the young men are going to leave the place?

NAH-GAH-NUP. That is the impression we are laboring under.

Bishop MARTY. That is entirely false.

NAH-GAH-NUP. They are entirely a unit in wishing to remain here, and we should like to hear the thing repeated.

Bishop Marty then read to the Indians, through the interpreter, the paragraph of the act of Congress which states that they may take their allotments on the reservations where they have belonged, and continued:

If there is anything else which holds you back, if you will be kind enough to tell us, we will explain it.

NAH-GAH-NUP (after addressing the Indians). We have heard the honorable commissioners explain the act submitted for our consideration. We believe it is all the truth. I believe to-day that I am blessed. I am supported by power and influence. I am supported by the right, and I know the words of our venerable bishop are true, and also those of my other friends sitting here. There is only one thing more. We have no cattle that we can work, and we wish a place set aside where we can have a church and a school built. And also a place for a village where improvements can be made and where blacksmiths can be stationed. And there ought to be a chapel built at the other place on the line of the railroad, where there is an Indian village. It is about a mile and a half from the railroad, where our gardens are located. We think the time is past when we should take a hat and put it on our heads just to mimic the white man, to adopt his custom without being allowed any of the privileges that belong to him. We wish to stand on a level with the white man in all things. The time is past when my children should stand in fear of the white man, and that is almost all that I have to say.

I omitted one thing. Yesterday one of the commissioners stated that when we wanted a board we had to buy it from the mills. We request that the commissioners recommend that a mill be situated in our midst for our use.

I shall always expect to hear a man like the bishop, who always calls upon the name of God, and hope that the wish shall not be expressed in vain.

Now, I address again my old friend, Mr. Rice, who knows 440 all about the past transactions and the cessions and nego-

tiations. I call upon him to use his influence and I call upon all the commissioners to use their influence, that our place shall be made as permanent as the place of the north star, which never changes its location. I want this place made as solid for us as the place where the Great Father is, so no man shall stand in fear of losing his possessions. I have had conversations with the Great Father, and also with the great general. And I hope my Great Father will put his hand to the paper, and make this ground solid for us according to my request; and that he will also have the great war-chief sign so that the paper will be made solid. I hope that the requests I have made will be sanctioned by the President and those around him, forming his Cabinet.

I thank the Master of Life for allowing me to say these words, and that my children should witness my anxiety for their welfare. Also, that all the people here will not lose sight of the fact that all my life I have worked for their interest, after I am called away from this world.

A great many make a contract with each other to live together for life. A great many children spring from that, and also much misery. What shall happen to a man who breaks his marriage vow? There is nothing that binds them. Men, and women also, think very lightly of their marriage vows, because there is no restraint. There ought to be a law so that they would not think so lightly of this. My father (Bishop Marty), that is all that I ask of you and it is something that I can not control.

Bishop MARTY. You are all Catholics, and in the Catholic Church there is no divorce. All white men who are Catholics have the same law, and I am happy to say that among white men who are not Catholics the views expressed by the chief begin to prevail.

Society is ruined if the family, which is its foundation, is not preserved. I therefore hope that before long a law will be passed in the United States that divorce shall be unlawful.

You will probably have a resident priest next year, and he will adjust all these matters. I am thankful that you have spoken as you have.

Mr. RICE. If agreeable to you, we will now proceed with the signatures, which, with the taking of the census, will take two days.

The old chief, Nah-gah-nup, then signed the agreement, and was followed by the other male Indians of proper age.

441 Stipulation as to documents Nos. 46 to 61, inclusive

As to documents Nos. 46 to 61, inclusive, next ensuing, it is stipulated that the State of Minnesota admits only that these are true copies, but does not admit the truth of the statements therein contained, and objects to them on the grounds that they are incompetent and hearsay, in addition to being irrelevant and immaterial.

442 DOCUMENT 46

[Extract from History of the Ojibways, by W. W. Warren, written in 1852 (see note to preface), and published in "Collections, Minnesota Historical Society," vol. 5, 1885. Extract from pp. 39, 40.]

The Ojibways reside almost exclusively in a wooded country; their lands are covered with deep and interminable forests, abounding in beautiful lakes and murmuring streams, whose banks are edged with trees of the sweet maple, the useful birch, the tall pine, fir balsam, cedar, spruce, tamarac, poplar, oak, ash, elm, basswood, and all the plants indigenous to the climate in which they reside.

Their country is so interspersed with watercourses that they travel about, up and down streams, from lake to lake, and along the shores of Lake Superior, in their light and ingeniously made birch-bark canoes. From the bark of this useful tree, and rushes, are made the light covering of their simple wigwams.

The bands who live on the extreme western borders of their country reside on the borders of the vast western prairies, into which they have gradually driven the fierce Dahcotas. The Red Lake and Pembina Bands, and also the Pillagers, hunt buffalo and other game on the prairies west of the Red River; thus, as it were, standing one foot on the deep eastern forests and the other on the broad western prairies.

The Ojibways, with the exception of a few Lake Superior and Canada Bands, live still in their primitive hunter state.

They have ceded to the United States and Great Britain
443 large and valuable portions of their country, comprising most of the copper regions on Lake Superior and the vast pineries in Wisconsin. From the scanty proceeds of these sales, with the fur of the marten, bear, otter, mink, lynx, coon, fisher, and muskrat, which are yet to be found in their forests, they manage to continue to live in the ways of their forefathers, though but poorly and scantily.

They procure food principally by fishing; also by gathering wild rice, hunting deer, and, in some bands, partially by agriculture.

444 DOCUMENT 47

[Extracts from "The Wild Rice Gatherers of the Northwest," by Albert Ernest Jenks, included in House Document No. 539, 56th Cong., 2d Sess., vol. 119, being the Nineteenth Annual Report of the Bureau of American Ethnology, Smithsonian Institute, pt. 2, 1898, pp. 1019–1131.]

First extract (p. 1019).

INTRODUCTION

This memoir was begun with the hope that eventually other somewhat similar studies of American primitive economics might be made

which would throw light from an almost new direction on the culture status of the North American Indians. As the economic motive is so dominant among the foremost peoples of to-day, its ascendence must mark a new stage in the measurement of culture. It has been very interesting to find, through this study, three distinct steps in the development of the motive for production, beginning with myth-founded belief and rising to an incipient state of economic consideration. For example, the Menomini Indians absolutely refuse to sow wild rice—their motive is simply that of belief; the Dakota Indians do not sow the grain, but apparently have no myth-founded scruple against it; while among the Ojibwa no such belief seems likely ever to have existed, for they sow the grain from purely economic motive, though such motive is not so dominant as among many maize-producing tribes.

This study has helped to elucidate the culture position of the tribes which used wild rice by showing the motives for production, the effect on the Indian of such quantities of spontaneous vegetal food, the property right in the rice beds, and the division of labor. It has given a detailed picture of aboriginal economic activity which is absolutely unique, and in which no article is employed not of aboriginal conception and workmanship. It has thrown light upon the almost constant warfare between the Dakota and Ojibwa Indians for two hundred and fifty years. It has shed light also upon the fur trade in a territory unexcelled in the richness of its furs, yet almost inaccessible had it not been for the wild rice which furnished such nourishing and wholesome support to the traders and hunters. It also shows that much of history is wrapped up in native geographic names; and it is hoped that it may help to promote the preservation and retention of such terms. It has suggested new lines of manufacture.

Second extract (pp. 1024–1025).

Of the American synonyms given above, the larger number follow the norm manó min. This is the Algonquin word for wild rice, and it is chiefly through this term that the plant has influenced geographical names in America. The word is a compound of the adjective and adverbial form me-no, meaning "good," "right," "well," and of the noun form min, meaning "berry." * * *

445 Among the Algonquin tribes of New England, kinsmen of the Ottawa and Ojibwa Indians, min or meen is the word for berry or maize, min being the general term for berry.[1] Thus manó mín, the term by which wild rice first came to be known among the white settlers of the Northwest—the French at Green Bay, Wisconsin—is the Algonquin word for the very suggestive and common-sense term "good berry," or "good fruit." The French named the plant folle avoine (wild oat, mad oat, or fool oat), and this term and

[1] Barratt, Indian of New England, p. 19.

its various faulty renditions are frequently applied to the plant in early accounts of the Northwest. Marquette once called it fausse avoine (false oat), and the Latin avena fatua was doubtless applied to the plant because of the term adopted by the French. It is difficult to say what the Siouan norm is, but probably it is psin, which is often followed by some slightly accented vowel, as in the word psina.

Third extract (pp. 1025–1026).

Wild rice is one of the most beautiful aquatic single-stem plants in America. The grain is shed into the water when it ripens in the autumn and lies in the soft ooze of alluvial mud at the bottom of a lake or river until spring, when it germinates and grows rapidly to the surface. Textbooks have frequently called the plant perennial. The old stalks die down below the surface of the water before the time arrives for the new ones to appear, so the inference has been made that they all come from the same root; but the plant is an annual, growing from new seed each year. It was called a biennial by the Detroit Gazette December 24, 1820.

Early in June the shoot appears at the surface of the water and at once begins to prepare its fruit head. At about this stage of its growth it has been described as follows:

When seen from a distance they (the rice beds) look like low green islands on the lakes; on passing through one of these rice beds when the rice is in flower, it has a beautiful appearance with its broad grassy leaves and light waving spikes, garnished with pale yellow green blossoms, delicately shaded with reddish purple, from beneath which fall three elegant straw-colored anthers, which move with every breath of air or slightest motion of the waters.[2]

The plant blossoms in June, and by September the seeds are mature. The fruit heads are mostly of a pale green color with a tinge of yellow, but at maturity they generally acquire a cast of purple.[3] Rice beds have been described as resembling fields of wheat, of canebrake, and of maize. At maturity the stalks range from 2 to 12 feet in height above the water, and they also vary much in thickness. Their total length depends largely on the depth of the water in which they grow, as well as on the fertility of the soil.

This latter cause affects also the size and strength of the stem. The stalks are most frequently from 5 to 8 feet in length, but
446 they are also found as long as 16 or 20 feet. They grow up through the water, varying from 12 inches to 10 or 12 feet in depth. Mr. L. A. Paddock, of Grass Lake, Lake County, Ill., describes the plant in the most luxuriant growth which it is believed to acquire in America. His description is unique also in the fact that at Grass Lake, after the plant grows to the surface of the water

[2] Catharine Parr Traill, Backwoods of Canada, p. 237.
[3] Elliott Coues in Botanical Gazette, December, 1894, p. 506.

and until it is 2 or 3 feet long, it lies flat upon the surface. Then as each leaf enlarges and gains strength the stalk straightens up (others have said that if once the young shoot gets down onto the water it can not possibly rise, but dies without fruitage). By the middle of July the stalks are about 8 feet high. At that time from the center of each stalk a long slender shoot grows to the height of about 4 feet above the topmost leaf. This shoot bears the fruit head. The stalk grows an inch or more in diameter and to the height of 10 or 12 feet above the water. It grows to this, its greatest height, in water 1 foot deep, but it will grow and mature in water 8 feet in depth, in which case it rises about 4 feet above the surface. The roots are so strong and matted that they will support the weight of a man walking upon the mass in shallow water.[4]

Fourth extract (pp. 1026–1027).

It will later be seen that the Indian, by his use of the wild-rice seed, is a great enemy of the plant, for it will be shown that the plant, unless it is artificially sown, is gradually being extinguished in such beds as are continually used. Waterfowl in countless numbers feed upon the grain at its maturity. In fact, it is so choice a food for duck, geese, teal, and other waterfowl that it is now quite frequently sown by gun clubs in mud-bottomed waters in hunting preserves to attract such fowl for shooting.[5]

Many descriptions are given of clouds of blackbirds, redwing blackbirds, and ricebirds which subsist on the grain during and immediately after its milk stage.[6] Rails, pigeons, quails, herons, cedar birds, woodpeckers, and many other birds also consume the grain by feeding from the heavy stalks.[7]

Fifth extract (pp. 1033–1036).

Habitat in the wild-rice district

Wherever the last glacier left little mud-bottomed, water-filled hollows, there wild rice has established itself, if other conditions are favorable. Such ponds and lakes are characteristic of the alluvial

[4] Paddock, letter, January 20, 1899.

[5] See chapter VI for the consumption of wild rice by these game birds.

[6] The most common of these blackbirds, all of which are fond of wild rice, are the purple grackle (*Quiscalus quiscula*), the boat-tailed grackle (*Q. major*), and the rusty grackle (*Scolecophagus carolinus*). The redwing or swamp blackbird (*Agelaius phoeniceus*) forms large migratory flocks in the autumn in all of the northern States, and becomes very destructive to the grain. The ricebird, reedbird, or bobolink (*Dolichonyx oryzivorus*) is the natural bird enemy of wild rice and is found in countless numbers in all—both brackish and fresh water—wild-rice marshes during the autumn.

[7] Pither, letter, December 5, 1898; McKenney, Memoir, vol. II, p. 104; Hind, Narrative, Vol. I, p. 118. The sora rail (*Porzana carolina*), the yellow rail (*P. noveboracensis*), and the black rail (*P. jamaicensis*) feed upon wild rice. The sora rail is especially common in fresh-water wild-rice marshes. For references to great numbers of waterfowl in Minnesota, see Schoolcraft, Indian Tribes, Vol. I, pp. 186–187, Vol. IV, pp. 193–194. For the waterfowl on Fox River, see Brown, Western Gazetteer, pp. 252, 261; also Schoolcraft, Summary Narrative, p. 183, and Featherstonhaugh, Canoe Voyage, Vol. I, p. 180.

apron spread out over Wisconsin and Minnesota. In 1817 the interior of Wisconsin is spoken of as watered with innumerable small lakes and ponds which generally abound with folle avoine (wild rice), waterfowl, and fish, each in such prodigious quantities that the Indians are in a manner exempt from the contingence of famine.[8]

Within the wild-rice district sluggish streams and quiet bends in the rivers and creeks also produce wild rice, provided the bed is mud alluvium. The grain has followed the stream toward its mouth, the waterfowl has sown it in its flight, and the Indian has carried it to his favorite lakes and streams, until to-day it is safe to say that the grain is found wherever in these two States there is suitable soil (see plate LXVIIa).

Before the middle of the seventeenth century wild rice was reported as the staple food of the Menomini Indians, and as being very plentiful on what is now Menomini River, the boundary between Wisconsin and the upper peninsula of Michigan. Indian tradition first speaks of the grain as being found in this stream, and from here as a starting place the present memoir will follow the plant along the various waterways of the wild-rice district. Green Bay, from above the mouth of the Menomini River southward to the bayhead, has been fringed with the plant from earliest historic times, and to-day there are thousands of acres of wild rice in the shallows of its waters. Most of the streams which discharge into it—all of those which are suitable—bear the grain abundantly. Fox River, from Lake Winnebago to its source, has been reported as filled with wild rice from the time of Marquette, who spoke of it in 1673 as follows: "The way is so cut up by marshes and little lakes that it is easy to go astray, especially as the river is so covered with wild oats that one can hardly discover the channel."[9] Carver, in 1767, wrote, "in some places it is with difficulty that canoes can pass, through the obstructions they meet with from the rice stalks, which are very large and thick."[10] Featherstonhaugh wrote, in 1847, that near Fort Winnebago there were several thousand acres of wild rice. He estimated the fields as at least 5 miles long and 2 miles wide.[11] He said that on Fox River they were obliged to stop paddling and "all took to warping the canoe through by hauling upon the tall stalks.[12] In 1888 a writer stated that north of the portage of the Fox and Wisconsin rivers, "as far as the eye can reach, there is a stretch of wild-rice swamp."[13]

448 Fox River illustrates well the influence of the current upon the existence of wild rice. From the portage between the Fox and Wisconsin Rivers to Lake Winnebago, Fox River is 104 miles

[8] Samuel R. Brown, Western Gazetteer, p. 252.
[9] Quoted by Thwaites in Historic Waterways, Chicago, 1888, pp. 156, 157.
[10] Carver, Travels, p. 38; see also p. 536. Brown, Western Gazetteer, p. 261. Coues, Pike, Vol. I, p. 302.
[11] Featherstonhaugh, Canoe Voyage, Vol. I, p. 184.
[12] Ibid, p. 190.
[13] Thwaites, op. cit., p. 145; see also Edward Tanner in Detroit Gazette, January 15, 1819.

long, with a total fall of only 40 feet, and, as has been seen, it is filled with the plant. On the other hand, from Lake Winnebago to Green Bay, where the stream is only 37½ miles long, with a fall of 170 feet, the plant does not flourish.

Wild rice is found along Wisconsin River even below the portage just referred to,[14] while the headwaters of the Wisconsin are often dense wild-rice beds. Wolf River and its tributaries also grow the plant.

The upper waters of the Red Cedar, Chippewa, and St. Croix Rivers are filled with the growth, and it is from this supply that the Ojibwa Indians of Lac Courte Oreille Reservation gather their annual crop[15] (see Plate LXVII *b*). In speaking of the Menomini, Wolf, Fox, Wisconsin, Red Cedar, Chippewa, and St. Croix Rivers and systems, it must be remembered that the various lakes, ponds, and streams in all this section of country are considered.

Although Dr. Jedidiah Morse[16] reported in 1822 that wild rice did not grow within 150 miles of Lake Superior on the south, yet it is now annually gathered in many of the streams flowing into Lake Superior from this region, and in 1860 J. G. Kohl stated that "the plant is very prevalent in the southern part of the lake (Lake Superior)."[17]

The headwaters of Mississippi River in Minnesota are in the heart of the Minnesota rice fields.[18] The regions about Mille Lacs, Leech Lake, Sandy Lake, Gull Lake, and Lake Winnebigoshish, all draining into the Mississippi, are abundantly supplied with wild rice.[19] Maps of fifty years ago present a "Great Rice M(arsh)" as extending along Minnesota River (then generally represented as the St. Peters) from its juncture with the Mississippi at St. Paul up as far as Beaver Falls in Renville County, Minnesota;[20] and Carver said of this country in 1767, "Wild rice grows here in great abundance."

Lakes and streams draining into Red River of the North, between Minnesota and Dakota, are also Minnesota wild-rice fields.[21] One of these streams is Wild Rice River, which has its source in two lakes bearing the name Rice, which also lie in Minnesota. Another is Pse River, whose source is in the Dakotas. Farther north, the lakes and streams emptying into Lake of the Woods, Rainy Lake,

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[14] Atwater, Indians, p. 181.

[15] Mrs. Eliot, Summer Rambles, pp. 151, 152; also Schoolcraft, "Thirty Years with the Indian Tribes," pp. 369, 373, 380, 383, 385; Schoolcraft, Summary Narrative, appendix, p. 543; Carver, Travels, p. 533; also Report of the Commissioner of Indian Affairs, 1850, p. 54.

[16] Morse, Report, appendix, p. 30.

[17] Kohl, Kitchi-Gami, pp. 117–118.

[18] Schoolcraft, Indian Tribes, Vol. IV, pp. 193–194; also Schoolcraft, Summary Narrative, pp. 134, 235, 239, 249.

[19] Hennepin, Nouvelle Découverte, p. 313* (fol. 0*4). See also Indian Affairs Report, 1850, pp. 56, 61; Schoolcraft, Indian Tribes, Vol. I, pp. 186–187.

[20] Map accompanying Carver's Travels. See also Schoolcraft, Indian Tribes, Vol. II, p. 97.

[21] Lord Selkirk's Setlement in North America, p. 120. See also Western Journal, May, June, July, August, Vol. II, number 5, 1849; Keating, "Narrative," Vol. II, p. 37.

and the Winnipeg system in general, are mainly wild rice producing waters.[23] Mackenzie said in 1801:

449 Vast quantities of wild rice are seen throughout the country (from Lake Superior to Lake Winnipeg), which the natives collect in the month of August for their winter stores.[24]

Seymour wrote of Lake of the Woods, in 1850:

"The indentations of its rocky, moss-covered shores are full of the wild rice, which is annually collected in large quantities by the Indians."[25]

Farther south the St. Louis River system tells the same tale—the streams all bear abundant stores of wild rice.[26] In 1883 the plant was reported from Minnesota as being "common, or frequent, in favorable situations throughout the State; sometimes attaining, in Brown County, a height of 13 feet, with leaves 4 feet long."[27] Chapter VII of the present memoir still further aims to show the extent of wild rice, where Indian production was carried on, as exhibited by its influence on geographic names.

Some idea of the prevalence of wild rice in the lakes of this district may be obtained from the following characteristic quotations:

The Indians around Sandy Lake (Aitkin County, Minnesota), in the month of September repair to Rice Lake to gather their rice. In no other place does it grow in as large quantities as there. This lake is about 5 miles long and 3 broad. It might, perhaps, be called a marrais, for the water is not over 5 feet deep, and its surface is almost entirely covered with rice. It is only in morasses, or muddy bottoms, that this grain is found.[27]

Warren writes of Mille Lacs, in 1852, that it is a circular lake about 20 miles across and abundantly stocked with fish. Connected with it is a string of marshy or muddy-bottomed lakes in which the water is but a few feet deep, and wherein the wild rice grows luxuriantly. "Possessing these and other advantages," he says, "there is not a spot in the Northwest which an Indian would sooner choose as a dwelling place than Mille Lacs."[28]

Jefferson Davis wrote, in 1885, that in 1829 in the country about "Tay-cho-pe-rah," "The four lakes country," i. e., Madison and its vicinity, in Wisconsin, "the Indians subsisted largely on Indian corn and wild rice."[29] In 1816 the grain was gathered in Rock River, Wisconsin, and Chapter VII will show that the plant existed throughout the southeastern part of the State.

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[23] Harmon, Journal, pp. 44, 45, 142. See also McMillan, Observations on the Distribution of Plants Along Shore at Lake of the Woods, pp. 949–1023, in Minn. Bot. Studies, Bull. 9, parts 10 and 11, p. 994; Hind, Narrative, pp. 96, 97, 115, 116, 118.

[24] Mackenzie, Voyages, pp. 61, 62.

[25] Seymour, Sketches of Minnesota, p. 233.

[26] Schoolcraft, Summary Narrative, p. 112; also Indian Affairs Report, 1891, Vol. I, p. 471.

[27] Upham, Catalogue of the Flora of Minnesota, p. 159.

[27] Edward Tanner, Detroit Gazette, December 8, 1820.

[28] Warren, History of the Ojibwa, p. 156.

[29] Butler, Tay-cho-pe-rah, in Wisconsin Historical Collections, Vol. X (1883–1885), p. 75.

450 A general view of wild rice in Wisconsin and Minnesota was given by Upham in 1883, who quotes as follows:

"Wild rice * * * acquires in the Northwest an economical importance second to no other spontaneous production. It is the only instance in this region of a native grain occurring in sufficient quantity to supply the wants of ordinary consumption. It is particularly abundant on the lake-like expansions of rivers, toward their sources, which give such a marked feature to the distribution of these northern streams, and is so grandly illustrated in their main type, the Mississippi. It seems to select, by preference, the lower terminations of these expansions, which generally debouch by a narrowed outlet and considerable fall, constituting rapids * * *. It is rarely met with on inland lakes which have no outlet."[80]

This section has shown that most of Wisconsin and the northern half of Minnesota bore wild rice so abundantly that the Indian population depended very largely upon it for food. This "wild-rice district," as considered in Chapter VI, includes Wisconsin, excepting the southwestern part, and that part of Minnesota lying east of Mississippi River. This boundary is fixed almost arbitrarily, the only reasons being that more accurate statistics of Indian population, and a more precise knowledge of Indian food conditions, were here obtainable than for the territory west of the Mississippi, which consequently is left out of consideration, though it has abundant wild-rice fields.

This view of the habitat within the wild-rice district shows that no other section of the North American Continent was so characteristically an Indian paradise, so far as a spontaneous vegetal food is concerned, as was this territory in Wisconsin and Minnesota. Sixth extract (p. 1038).

When one considers their fierceness, numbers, and extensive habitat, the Ojibwa (usually called Chippewa) and Dakota (generally designated Sioux) are the most important of all of the Indians within the wild-rice area. These two tribes have been enemies and friends successively from historic times until 1862, when the Dakota were removed from Minnesota.

Even previous to the records of written history, native tradition paints a picture of almost constant struggle between the Ojibwa and Dakota Indians for the conquest and retention of the territory, including the rich wild-rice fields. Schoolcraft wrote in 1831:

"A country more valuable to a population having the habits of our northwestern Indians could hardly be conceived of; and it is therefore cause of less surprise that its possession should have been so long an object of contention between the Chippewas and Sioux."[81]

The same author further spoke of this region as follows:

451 "It has been noted, from the first settlement of Canada, as abounding in the small furred animals, whose skins are val-

[80] Upham, "Catalogue of the Flora of Minnesota," p. 159.
[81] Schoolcraft, Summary Narrative, p. 544.

table in commerce. Its sources of supply to the native tribes have been important. It has, at the same time, had another singular advantage to them from the abundance of the grain called monomin, or rice, by the Chippewa Indians, and Psin by the Sioux."[32]

Mr. W. W. Warren presented many facts pertaining to the subject in his valuable work, "History of the Ojibways, Based upon Tradition and Oral Statements."

Seventh extract (p. 1042).

The following facts shed light on the importance which the Indian attached to wild rice. Almost every band of Chippewa and Red Cedar Rivers has been the scene of an Indian battle, and each of these streams has borne a name synonymous with "Wild-rice river." Prairie-rice lake ("Mush-ko-da-mun-o-min-e-kan," Prairie Lake, Barron County, Wisconsin) has been the scene of several battles between the Ojibwa and the Dakota. It is about 8[33] miles long and averages less than a quarter of a mile wide. It is shallow, miry-bottomed, and almost entirely covered with wild rice, which is so thick and luxuriant that the Indians have to cut paths through it for their canoes. "From the manner in which they gather the rice, and the quantity which a family generally collects during the harvesting season, this lake alone would supply a body of 2,000 Indians."[34] From the earliest period of their occupation of the Chippewa River country, the most fearless of the Ojibwa came to this lake each fall of the year to collect a portion of the abundant rice crop, notwithstanding its close vicinity to the Dakota villages, and notwithstanding that they lost lives from the sudden attacks of the Dakota almost yearly.[35]

Some of the Ojibwa villages near the wild-rice fields were named "Wild-rice village." In 1852 Warren[36] said that the Ojibwa living on "Rice" lakes of the St. Croix were called "Mun-o-min-ik-a-sheenh-ug, or Rice-makers." In 1831, Schoolcraft, in naming the Ojibwa Bands, mentioned the "Folle Avoine country" as including Lac du Flambeau, Ottawa Lake, Yellow River, "Nama Kowagun" of St. Croix River, and Snake River.[37] Indeed, the French called the Indians of all this section of country—the river sources of northern Wisconsin—the "Fols Avoin Sauteurs."[38] Arrowsmith's map (London, 1796; additions, 1802) shows the Ojibwa occupying the territory both north and south of Lake Superior, and shows Burntwood River (Bois Brulé) as the "passage into the country of the Wild Rice Indians." It leads to the headwaters of St. Croix River, haly-way down the course of which is a "Chippeway village called the Rice people."

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[32] Schoolcraft, Indian Tribes, Vol. I, p. 187.
[33] Warren, op. cit., p. 299.
[34] Ibid., p. 309.
[35] Ibid., pp. 309–310.
[36] Ibid., p. 38.
[37] Schoolcraft, Narrative, appendix, p. 576.
[38] Coues, Pike, Vol. I, pp. 342–343.

452 About 10,000 Ojibwa Indians had access to wild rice from the time they drove the Fox Indians out of the wild-rice fields until, say, the year 1825, or in round numbers two hundred years, and this is about the present Ojibwa population in the United States who use wild rice.[39]

Eighth extract (pp. 1048–1049).

Radisson said of the Menomini late in the fifth decade of the seventeenth century: "They weare of a nation called Malhonmines; that is, the nation of oats, graine yt is much in yt countrey."[40] Charlevoix, in 1721, wrote of an island on the western side of Green Bay, "upon which is the village of the Malhomines, which the French call folles Avoines (wild oats), probably because they make their common food of this grain."[41] From that time until the present there is frequent evidence that these Indians depended greatly upon wild rice. A few instances will be cited. Major Irwin wrote of them in 1820: "The Canadians designate them Folls-avoine * * * wild oats or rice. This is one of the principal articles on which the Indians subsist in this quarter. It is to be found in great abundance, in the fall of the year * * *. It is believed that enough of it could be gathered in the fall to support several thousand Indians for one year."[42] He continues: "In the spring they subsist on sugar and fish; in the summer, on fish and game; in the fall, on wild rice and corn, and in the winter on fish and game. Those who are provident have some rice during the winter."[43] In 1829 wild rice furnished them abundant subsistence.[44] Governor Dodge said of them in 1837–38, they "raise corn on the Oconte, Menominee, and Fox Rivers in small quantities, but depend on the chase, fishing, fowling, and gathering of wild rice for subsistence."[45] Exactly similar reports were made for the years 1844 and 1845.[46]

453 Ninth extract (pp. 1056–1057).

The grain is matured in the latter part of August or in September. Shortly before that time the women often go to the rice fields in their canoes and tie the standing stalks into small bunches (Plate LXX). When the grain is sufficiently mature, two persons, generally women, go together into the fields to garner the seed. The stalks are usually so close together in the harvest field that it is impossible to use a paddle, so the canoe is pushed along by a pole. As

[39] The portable wigwams in which these Indians visit the rice fields are illustrated in Plate LXVIIb, LXXIX.
[40] Radisson, Voyages, p. 201.
[41] Charlevoix, Voyage to Canada, letter XIX, p. 202.
[42] Morse, Report, app., p. 47. Dr. Morse (ibid., app., pp. 51, 52) also reports communications from Messrs. John Lawe, Jas. Porlier, Peter, Augustin, and Louis Grignon, and Laurent Fily to the same effect. These gentlemen were traders at Green Bay and vicinity for half a century.
[43] Ibid., app., p. 48.
[44] House of Reps., War Dept., 20th Cong., 2d sess., House of Reps. Doc. No. 117, Indian Affairs; see also Schoolcraft, Indian Tribes, vol. III, pp. 591, 607, for the years 1829 and 1832.
[45] Indian Affairs Report, 1837–38, p. 16.
[46] Op. cit., 1844–45, p. 131, and op. cit., 1845, p. 494.

the harvesters pass among the rice, standing 4 or 5 feet above the water, one of the women reaches out, and, by means of a stick, pulls a quantity of the stalks down over the side of the canoe. Then with a similar stick held in her free hand she beats the fruit head, thus knocking the grain into the bottom of the canoe. In this way the grain on both sides of the path is gathered. When one end of the canoe is full, the laborers exchange implements, the harvester becoming boatman and the boatman harvester, and the other end of the canoe is filled on the return trip to the shore. The grain is then taken out, dried or cured, its tenacious hull is thrashed off, and, after being winnowed, it is stored away for future use.[47]

454 Tenth extract (pp. 1058–1059).

Various reasons are assigned for tying the standing stalks into little bunches or sheaves while the grain is in the milk stage (Plates LXXI, LXXII). The stalks are tied with strips of bark, and are left standing two or three weeks to ripen.[48] * * *

General Ellis wrote of the Indians in Green Bay County, Wisconsin: "One mode is to go into this 'standing corn' with their canoes, and taking as many stalks as they can compass with their hands, give them a twist and kink, and then turn the bunches downward, leaving them to ripen on the stalks. This gives the party twisting the bunches a kind of preemption to so much of the rice, which before was all common."[49] Carver said: "Nearly about the time that it begins to turn from its milky state and to ripen, they run their canoes into the midst of it, and tying bunches of it together just below the ears with bark, leave it in this situation two or three weeks longer, till it is perfectly ripe. About the latter end of September they return to the river, when each family having its separate allotment, and being able to distinguish their own property

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[47] Attention is called to the following published illustrations of wild rice harvesting by the Indians: 1, Ojibwa Indians: Schoolcraft Indian Tribes, Vol. III, pl. 4, p. 64; ibid., Vol. VI, p. 552; same by Stickney, Indian Use of Wild Rice, American Anthropologist, Vol. IX, pp. 115–121, April, 1896; 2, Chicago Tribune, Sunday edition, October 6, 1898, p. 1. 3, An early picture of the harvest; Bressany, Relation Abrégée de Quelques Missions, Montreal, 1852, p. 237. 4, Dakota Indians; Catlin, Illustrations of the manners, customs, and condition of the North American Indians, 10th ed., Vol. II, pl. 278, p. 208, London, 1866. 5, Wisconsin Indians: Olney, Quarto Geography, 1849, p. 37; Bryant, Popular History of the United States, 1878, Vol. II, p. 514.

In the golden-hued Wazu-pe-wee—the moon when the wild rice is gathered;
When the leaves on the tall sugar-tree are as red as the breast of the robin,
And the red-oaks that border the lea are aflame with the fire of the sunset,
From the wide-waving fields of wild-rice—from the meadows of Psin-ta-wakpa-dan,
Where the geese and the mallards rejoice, and grow fat on the bountiful harvest,
Came the hunters with saddles of moose and the flesh of the bear and the bison,
And the women in birchen canoes well laden with rice from the meadows.
—Gordon, "Legends of the Northwest," pp. 58–59.

[48] Rodman, letter, November 11, 1898; Schoolcraft, Summary Narrative, p. 130; Eleventh Census of the United States, 1890; Indians, p. 340.

[49] Ellis, Recollections, p. 265.

by the manner of fastening the sheaves, gather in the portion that belongs to them."[50] E. S. Seymour wrote: "In the first place, to protect it from black birds, they collect the grain in bunches while the grain is in the milk, and cover each bunch with a band made of the bark of the linden or bass wood tree." * * *

The care in tying is shown in a letter by Roger Patterson, Government farmer of Bad River Reservation, Wisconsin, which is here quoted in part: "About August 15th the squaws, using small canoes, go out along the river and gather together the heads of rice, tying them with bark strings into sheaves, taking care to draw them together gently, so as not to break the stems or roots. After being tied and wrapped with bark strings so that the grain will not waste it is left standing, supported by the stalks that are not broken, about 2 feet above the water."[51]

Eleventh extract (p. 1061).

Gathering

The previous process, that of tying, is not an essential one in the harvest of wild-rice grain, though, as has been shown, it is not uncommon. The first necessary step in the entire harvest is the gathering of the seed, and, while the grain is always gathered in canoes or other craft (there is a minor exception among the Menomini), there is, in the gathering, great variety in means and method. It is usually done by women. It is customary for the families which harvest wild rice to move to the fields during the harvest period, which lasts about one month.

455 Twelfth extract (p. 1062).

General Ellis wrote that the Indians in Green Bay County, Wisconsin, in pushing the canoe used a "long, light, slender pole, provided with a fork at one end, to prevent its sinking too deep into the soft muddy bottom."[52]

Catlin said of the Dakota that one woman paddled the canoe while the other bent the stalks over and beat out the grain, as is told above.[53] The Dakota used to gather the grain and carry it home in sacks.[54]

The Potawatomi Indians, of southwestern Michigan, gathered the grain as follows: They "would push the boat into the thick rice, bend the tops over the boat, and pound it out with 'rawagikan,' a stick for the purpose."[55]

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[50] Carver, Travels, p. 523.
[51] Patterson, letter, November 23, 1898. See also Rodman, letter, February 14, 1899.
[52] Ellis, Recollections, p. 266.
[53] Catlin, North American Indians, Vol. II, p. 208.
[54] Williamson, letter, November 30, 1898. This letter reads as though the grain was taken home before it was cured and hulled. Because of the danger from the Ojibwa, who dominated the rice fields during the period covered by the letter, it is not improbable that such was the case.
[55] Pokagon, letter, November 16, 1898.

The Ojibwa women of Bad River, Wisconsin, bend the tied bunches over the side of the canoe, untie the bark band, and beat out the grain with a short stick.[56] It is customary to untie the bunches before beating them.

At Fond du Lac (Lake Superior), Minnesota, two persons of either sex, or both, go out in a canoe, the forward person working it ahead with either a paddle or a forked pole. The one in the stern beats the rice out, using two sticks, one to bend the rice over and the other to beat the heads.[57] Harmon saw the Indians gathering the grain "with a hooked stick, in one hand, and a straight one in the other."[58]

Again we read that the "Fols Avoines" (Menomini) west of Green Bay, Wisconsin, beat the grain off into a canoe lined with blankets.[59] Another variation is found in that after the band about the stalks was cut and removed one of the harvesters bent the heads down over the canoe with a stick while the other with a pole beat off the grain.[60]

Dr. Hoffman, in his monograph, The Menomini Indians, wrote that, in 1892, "at the proper season the women, and frequently the men as well, paddle through the dense growth of wild rice along the shores of the lakes and rivers, and while one attends to the canoe, the others grasp with one hand a bunch of rice stalks, bend it over the gunwale into the boat, and beat out the ears of rice."[61] In 1899 the Menomini still gathered most of their rice in canoes from untied stalks, but where the water was too shallow for canoes, the stalks were tied, and the grain was beaten out on mats spread upon the water between the rows.

456 Thirteenth extract (p. 1064).

Again, as in the tying of the stalks, the canoe is indispensable in the grain gathering. At times a blanket is spread in the bottom; the canoe is propelled by a paddle, a pole, or a forked stick, sometimes the canoeman propels the canoe from the stern and sometimes from the bow. The grain may be gathered into the canoe by one person, who may hold the stalks in one hand and beat the grain out with a stick, or with two sticks, or sometimes with a paddle; or two persons may gather the rice, one holding the stalks over the canoe while the other beats out the grain with a pole. Again, the heads are clipped off over one of the sticks, and this is done either with another similar stick or with a sharp-edged curved paddle. At other times the grain is shaken out. Knives are used to cut the

[56] Patterson, letter, November 23, 1898.
[57] Phalon, letter, December 27, 1898.
[58] Harmon, Journal, p. 142.
[59] Brown, Western Gazetteer, p. 267; also Flint, Geography and History, Vol. I, p. 85.
[60] Seymour, Sketches of Minnesota, p. 183; see also Schoolcraft, Indian Tribes, Vol. III, p. 62 et seq.
[61] Hoffman, The Menomini Indians, p. 291.

bundles which are tied sometimes before cutting and sometimes after.[62]

Fourteenth extract (pp. 1071–1074).

Storing

While the American farmer locks his granary that its contents may be safe, the Indian hides his harvest for safety. In fact, the common term by which the Indian granary is now known throughout the Northwest is the French term cache, or hiding place. It is a part of an Indian's code of morals not to steal from his friends, but it is equally a virtue to steal from an enemy. Inasmuch as tribes ordinarily habitually steal from one another, the fall harvest of wild rice must be kept in a place of safety. Its hiding was formerly much more necessary than at present, for before the time of settled homes the families broke up the harvest camp immediately after completing their labors and repaired to their fall festivities or hunting grounds. As will be seen later, there was both a subjective and an objective reason why the Indians did not store away larger quantities of wild rice. One reason was that they would not gather large quantities of the grain, and the other reason was that the crop so often failed that at times they could not harvest abundantly. However, now and then the instinct of frugality was strong enough to assert itself. Atwater said that the Winnebago women contrived to save, by hiding, some of their food in time of abundance. They often buried rice and maize in the ground to keep it from being stolen.[63] Throughout Wisconsin in 1843 the grain was deposited in the ground to be taken out when needed for food.[64]

After winnowing the grain "They (the Titoha Band of Dakota, in the early part of the eighteenth century) carry away as much of it as they think they need and store the rest in the ground. They also put some to rot in the water, and when they return in the spring they find it delicious, although it has the worst kind of an odor."[65] The "Mantantons" (Mandan) kept rice in sacks, for, after a great feast made in honor of Le Sueur, the chief, "fit present a M Le Sueur d'un esclave et d'un sac de folle avoine."[66]

457 At Sandy Lake, in 1820, the rice when cured was "put into sacks of about a bushel each. A sack is valued at two skins. * * * A skin is valued at two dollars."[67] Carver wrote one hundred and thirty years ago that when the rice was fit for use the Dakota put it into skins of fawns and young buffalo, taken off nearly whole for this purpose, and sewed into a kind of sack, wherein they preserved it until the next annual harvest.[68] The Indians at

[62] A view of the rice field after the grain has been gathered is shown in Plate LXXIV, *a*.
[63] Atwater, Indians, p. 102.
[64] Indian Affairs Report, 1843, p. 434.
[65] Neill, Memoir of the Sioux, p. 236.
[66] La Harpe, Journal Historique, p. 66.
[67] Edward Tanner, Detroit Gazette, December 8, 1820.
[68] Carver, Travels, p. 524.

Rat Portage, Ontario, "make bags of the inside bark of cedar in which they store the rice. They hold from ¾ to 1 bushel each."[69] Schoolcraft said that the winnowed rice "is then put into coarse 'mushkemoots,' a kind of bag, made of vegetable fiber or twine, with a woof of some similar material. Occasionally this filling material is composed of old cloth or blankets, pulled to pieces."[70] Birch-bark boxes were also used, which, after being filled, were frequently buried. The Ottawa Indians used them in the middle of the seventeenth century.[71] The Potawatomi also used these boxes.[72] They were sewed together at the corners with "bast," the inner bark of the basswood, and were called (from the Algonquin) mococks (Plate LXXIX *a*).

The Indian granaries here noticed are very simple. They consist of a hole in the ground, into which are put boxes of birch bark and bags made of skin, bags made of the inside bark of the cedar and sometimes of other vegetal fiber, together with twine, etc.

Property-right in wild rice

As has been pointed out, most of the labors of wild rice production are performed by women. The women of more than one family frequently unite their labors and divide the product according to some prearranged agreement or social custom. It must not be lost sight of, however, that if the food of any worthy family fails, the entire food supply of the social group is available to make up the deficiency. Chief Pokagon writes of wild rice among the Pottawatomi: "Our people always divide everything when want comes to the door."[73]

Among many North American Indian tribes, especially those cultivating fields of maize, certain harvest lands are set aside by the tribe, in which the family has a sort of fee tail. In general, it may be said that such a family controls for its own use, but not for disposal in any way, definite harvest lands for stated periods of time, provided it comply with certain requirements—usually those of cultivation.

Marquette reported something similar among the Dakota in 1671. They divided the wild-rice fields so that each could gather his crop separately without trespassing upon his neighbor's rights. Wild rice "qu'ils partagent entr'eux, pour y faire la récolte chacun à part, sans empiéter les uns sur les autres."

458 Among the Ojibwa Indians property right is quite generally recognized in wild rice. It seems to be due not to tribal allotment, but to preoccupation. Certain harvest fields are

[69] Pither, letter, December 5, 1898; see also Gheen, letter, November 15, 1898; and Hoffman, The Menomini Indians, p. 291, for the same use of bags.
[70] Schoolcraft, Indian Tribes, Vol. III, p. 62.
[71] Relations des Jésuites, 1663, p. 19.
[72] Pokagon, letter, November 16, 1898.
[73] Pokagon, letter, November 16, 1898.

habitually visited by families which eventually take up their temporary or permanent abode at or near the fields. No one disputes their ownership, unless an enemy from another tribe, in which case might establishes right. The field or crop is sometimes distinguished by a personal mark, as is shown in the following cases. Carver said that after having tied the bunches they went to gather the crop, "when each family having its separate allotment, and being able to distinguish their own property by the manner of fastening the sheaves, gathers in the portion that belongs to them."[74] Ellis referred to a similar custom at Green Bay. He spoke of twisting the standing stalks into bunches, and says: "This gives the party twisting the bunches, a kind of preemption to so much of the rice, which before was all common."[75] Schoolcraft, in speaking in a general way of wild rice gathering in Michigan, Wisconsin, Iowa, Minnesota, and the upper Mississippi and Missouri Valleys, said that the places where each family is to gather are generally selected and known beforehand.[76] Of course, if one has sowed a field, no one, unless a tribal enemy, would think of disputing the ownership of the sower, and such rice beds fall to the kin, as would personal property.

Amounts of wild rice harvested

The primitive Indians do not take production very seriously. Indeed, they do not take it seriously enough for their own welfare, for often they are in want in an unnecessarily short time after the harvest. In the case of wild rice, their want was due not to overproduction and underdistribution, but to underproduction.

In 1820 Edward Tanner wrote: "One family ordinarily makes about five sacks of rice (5 bushels); but those who are industrious sometimes make twenty-five—though this is very rare."[77] At Pelican Lake, Wisconsin, they gather about 12 or 15 bushels per family. They could gather more "if they did not spend so much time feasting and dancing every day and night during the time they are here for the purpose of gathering."[78] In the following table (A) an attempt is made to show the state of wild rice production between the years 1852 and 1898.

459 Fifteenth extract (pp. 1087–1088).

In this section will be brought together some facts as to the time of day and year when wild rice is consumed. It is natural to expect that most of it will be eaten immediately after harvest, for the Indian does not often save in large quantities or for a long period,

[74] Carver, Travels, p. 523.
[75] Ellis, Recollections, p. 265.
[76] Schoolcraft, Indian Tribes, Vol. III, p. 62 et seq.
[77] Edward Tanner, Detroit Gazette, December 8, 1820.
[78] Motzfeldt, letter, December 3, 1898.

especially in the case of food that he relishes greatly. However, since the fall hunts begin soon after the harvest, wild rice is generally quite extensively saved by those Indians whose hunting grounds are fruitful.

Hunter says of the Osage Indians: "The usual times of taking their meals are at sunrise, noon, and sunset." When the days are long and the food abundant, the grown people eat three meals daily, when the days are shorter but two meals are eaten, and when food is scarce they eat but one, and sometimes not even that.[79] According to Schoolcraft the Dakota Indians have no regular mealtime.[80]

Pokagon, the late Potawatomi chief from the St. Joseph River Valley, Michigan, wrote in regard to this subject: "Indians eat when hungry." His people ate their rice in the fall and all the year if it lasted.[81] The Leech Lake Indians, in 1863, garnered their wild rice for use in midwinter, when other food could not be obtained.[82] In 1843 the Menomini stored their wild rice in the ground "to be taken therefrom and used during the winter as their necessities require. In times of scarcity of game, they subsist entirely upon it."[83] Radisson says that wild rice is the food of the Dakota "for the most part of the winter."[84]

Pike wrote of the "Minowa Kantongs" (the Mdewaka^{n}to^{n}wa^{n} Band of the Dakota), that they cultivated a small quantity of maize and beans; but, although he was with them in September and October, he never saw one kettle of either, as they always used wild rice for bread. This production, he said, nature has furnished to all of the most uncultivated tribes of the Northwest, so that they may gather enough, which, together with the products of the chase and the net, will insure them subsistence throughout the entire year.[85]

Of the wild-rice district in 1820, we read: "A few provident Indians save a little (wild rice) for the spring of the year to eat with their sugar, though generally by the time they have done curing it the whole is disposed of for trinkets and ornaments." The author continues: "Thus by gratifying their vanity, they are left nearly destitute of provisions for the winter—choosing rather to endure hunger and the greatest misery then to mortify their pride."[86]

460 Warren says that in 1862 the Ojibwa of Leech Lake, Minnesota, gathered sufficient wild rice for winter consumption.[87] Carver wrote that the Indians saved the grain for an entire year. He speaks of the sacks of fawn skins and young bison skins "wherein

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[79] Hunter, Captivity, pp. 259–260.
[80] Schoolcraft, Indian Tribes, Vol. IV, p. 67.
[81] Pokagon, letter, November 16, 1898.
[82] Indian Affairs Report, 1863.
[83] Ibid., 1843, p. 434.
[84] Radisson, Voyages, p. 215.
[85] Coues, Pike, Vol. I, p. 344.
[86] Edward Tanner, Detroit Gazette, December 8, 1820; reprinted in Wisconsin Historical Collections, Vol. VII, p. 199 et seq.
[87] Warren, History of the Ojibways, p. 186.

they preserve it till the return of their harvest."[88] In 1775 Alexander Henry wrote of obtaining wild rice from the Indians in Canada, immediately north of the wild-rice district in the United States, about ten months after their last harvest.[89]

Letters of inquiry sent to reservations on which Indians now use wild rice elicited no new facts as to the time of its consumption. The grain is very highly esteemed as a food, and is usually eaten at any and all meals until the supply is exhausted.

Sixteenth extract (pp. 1095–1098).

Dependence of the Indian on wild rice

The food of primitive men varies with the season of the year and the section of the country in which they are. They frequently live upon one staple at a time. In the region of the upper lakes three or four weeks in March, April, or May were given to the making of maple sugar, during which time the people often lived almost exclusively on this food. Indeed, Alexander Henry says of maple sugar making between April 24 and May 12, 1768, "We ate nothing but our sugar during the whole period. Each man consumed a pound a day, desiring no other food, and was visibly nourished by it."[90] Soon the early berries were ripe, then green corn (maize) was edible, if the Indian cultivated it, and in September the wild rice came. Both in the spring and autumn wild fowl were countless in the vicinity of rice fields, and furred game and fish were plentiful all the year. The winter was the season for hunting, when stores of pemmican[91] were laid up.

In some sections of the country the rice crop failed partly or wholly at frequent intervals. Information from such sources as Chief Pokagon and Government farmers at Indian reservations shows that it so fails once in three or four years.[92] Again, at Grass Lake, Lake County, Illinois, where there are 1,000 acres of wild rice, it has not been known to fail in the last sixty years.

These preliminary remarks have been thought necessary in order that the historical sketch and summaries which follow may not overemphasize the value of wild rice in the household economy of the Indians and early white, for, of course, other foods must here be largely ignored.

461 Very positive evidence of the value of wild rice to the Indian comes to us from various Indian agencies. Mr. D. P. Bush-

[88] Carver, Travels, p. 524.
[89] Henry, Travels, pp. 241, 243, 244, 251.
[90] Henry, Travels and Adventures, p. 218.
[91] Pemmican is lean buffalo meat dried and pounded fine, then mixed with melted fat and packed in buffalo skins. It hardens and will keep for years, but if exposed to moisture it soon becomes musty and unfit for use. One buffalo would make a sack of about 100 pounds. It is a very palatable, nourishing, and healthful food (Harmon).
[92] See page 1099 et seq.

nell's report for 1838 contains the following concerning the Ojibwa of Lake Superior and the Mississippi river:

"It is highly desirable that the annuity hereafter to be paid to the Chippewas should be paid between the 1st of June and last of August. (Some of these Indians had to make a total journey of 400 miles to get their annuity.) Their spring hunts are not finished before the former period, and they commence about the 1st of September to gather the wild rice, which is a great article of food with the interior Indians. As soon as they have finished gathering the rice, the fall hunt commences. If called together after the 1st of September, they will generally be more injured than benefited by the sum they receive." [93]

Mr. Alfred Brunson, Indian agent, La Pointe, Wisconsin, wrote Governor Doty, under date of January 6, 1843, as follows: "By the Chippewa treaty of 1837 these Indians are to receive $35,000 annually for twenty years, and by the treaty of 1842 they are to receive an additional annuity of $31,700 for twenty-five years, or a total annuity of $66,700." "The annual products of these lands (between the Mississippi River and Lake Superior) are worth much more to the Indians than they are to receive * * *. The annual value of the furs are estimated at $25,000. There are about 1,000 families," who make $30,000 worth of sugar. "The same number of families average 25 bushels of rice at $1 (which) is $25,000." Canoe material he figures at $10,000, and game and fish at $100,000, or a total natural production of $190,000.[94] Subtracting the value of the canoe material and furs, we find that the value of the wild rice was about one-sixth of that of the total remaining (edible) production.

The following protest, signed by "Martin, head chief of the Ottawa," representing Ottawa Lake, Chippewa River, and Lac Chetac Bands, accompanied Brunson's letter (the conditions of the treaty of 1842 were not understood by the chiefs when they signed it): "We have no objection to the white man's working the mine & the timber & making farms. But we reserve the birch bark & cedar, for canoes, the rice & sugar trees & the privilege of hunting without being disturbed by the whites." [95]

Again, in 1843, Mr. Brunson wrote to Governor Doty, under date of January 10: "But what is of more importance to the Indians than anything else, in reference to their payment, *is the time & place of it*" (the italicized words are underscored in the letter). "But selecting this place (La Pointe) to pay the Inds. of the Mississippi is next to rendering their payment a nullity; because they loose more by it than their payments are worth to them. If taken away from their rice harvests they loose more than the whole payment

[93] Indian Affairs Report, 1838, document 20.
[94] Brunson, manuscript letter book, p. 25, in Wisconsin Historical Society's manuscript collection.
[95] Ibid., p. 47.

amounts to, say about $7 per head. And if taken away from their
fall hands, it amounts to the same thing." "If the payment
462 of all the Chippewas *must* (underscored in letter) be at the
Pointe * * * (they should be) paid not later than the
first of July (in which case) they can reach their rice fields in time
to harvest."[66]

One of the chief things the Indians desired in being located on reservations was the presence of rice fields, as is seen in the following cases. The first is a "Petition of the head chiefs of the Chippewa tribe of Indians on Lake Superior," February 7, 1849, as follows:

"That our people, to-wit, sixteen bands, desire a donation of twenty-four sections of land, covering the graves of our fathers, our sugar orchards, and our rice lakes and rivers, at seven different places now occupied by us as villages, viz: At View Desert, or Old Garden, three sections; at Trout Lake, four sections; at Lake Coteré, four sections; at La Pointe, four sections; at Ontonagon, three sections; at La Ance, three sections; and at Pah-po-goh-mony, three sections. That we desire these lands for the purposes specified."[67]

In 1858 the agent at Fond du Lac (Lake Superior) wrote:

"The Indians at this place are disappointed and sore with regard to the boundary lines of their reserve (made according to treaty of September 30, 1854). They state that the "rice lakes" (Perch Lake and others of its vicinity) which were to be included in their reservation have been entirely overlooked and left out, and they are unwilling to relinquish their claim to them. These lakes lie a few miles south of the present reserve, and abound in fish and wild rice, which constitute the principal subsistence of these Indians, and their attachment to them is very strong * * *. They wished me to say to their Great Father that they are willing to give up a large portion of the land contained in the present reserve if he will attach to the remainder the coveted lakes."[68]

The agent for these Indians reported, November 29, 1860, that the reservation should have included "Perch Lake" which was the only section of the country where they could support themselves the year round. There they obtained an abundance of "field-rice and fish," sugar, and game. There also was their chief settlement. After the boundary was made to include this lake, he said: It was gratifying to us to witness the pleasure with which the Indians received the intelligence that their farms and rice fields had at last been secured to them, and that they might now go on and cultivate their lands and garner their rice without the fear of being molested or driven away by the white man.

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[66] Brunson, manuscript letter book, p. 50, in Wisconsin Historical Society's manuscript collection. These last facts Mr. Brunson also wrote under date of July 20, 1843, to Robert Stuart, Acting Superintendent Indian Affairs at Detroit; see manuscript letter book, p. 104.

[67] House Misc. Doc. 36, Thirtieth Congress, second session.

[68] Indian Affairs Report, 1858, p. 48.

463 In 1863 Hole-in-the-Day (Ojibwa chief) spoke for his people at St. Paul, June 7, as follows (they had been moved from Wisconsin to Minnesota, and he asked that they might be removed to a new reservation): "Say that strip of land lying on the Wild Rice River between 47° and 48° north latitude, and east of the Red River. There is every advantage of good soil, game, fish, rice, sugar, cranberries, and a healthy climate." He asked for a land that will "combine all the elements of comfort and content to our people; that is, good land, game, fish, rice, sugar. Here we have neither, to any considerable extent. True, we may find a little rice and a few fish, but not sufficient for my people, not enough to save them from starvation."[99]

In 1865 the agent speaks of the impracticability of moving the Mississippi and Mille Lacs Bands of Chippewa to the Red Lake country. After speaking of the scarcity of good land and sugar trees, he continued: "There is another great item which must not be overlooked; that is, there are no rice fields in that country, * * * or fishing lakes."[1]

A letter from La Pointe agency, Ashland, Wisconsin, September 10, 1891, is as follows:

"In many of the streams and lakes of these reservations wild rice grows luxuriantly. This important cereal is carefully harvested by the Indians, and constitutes an important part of their subsistence stores. It is palatable and nutritious, and by many white people is preferred to the white rice of commerce. The rice fields are the resort of numerous wild fowl, which are captured by the Indians and either consumed at home or sold in the neighboring towns. The revenue thus derived from the rice fields renders them a very important part of the Indian domain."[2]

This recent testimony of the value of wild fowl to the Indian suggests their much greater utility in past years; and such in fact the following citations prove. When it is remembered that wild fowl are to-day relatively scarce, that through the Central States the sight of any considerable number of wild pigeons is rare, even to one skilled in woodcraft, but that our fathers yet living saw them in such flocks that they shut out the light of the sun, a better perspective will be obtained for judging of the number and value of wild fowl when the Indian and his natural foods were undisturbed by the white man. We read of the Indians of White Earth Reservation in 1890, that from August to December they hunt duck, which are found in countless numbers around all the wild-rice lakes.[3] Near the middle of the century wild fowl, as geese, duck, teal, etc., were reported in vast quantities, feeding on wild rice along Green

[99] Indian Affairs Report, 1863, p. 329 et seq.
[1] Ibid., 1865, p. 446.
[2] Indian Affairs Report, 1891, p. 471.
[3] Eleventh Census of the United States: Indians, 1890. See also Grasses and Forage Plants of the Dakotas, by Thos. A. Williams, p. 17.

Bay,[4] Minnesota River,[5] Winnipeg River,[6] and Lake Winnebago[7] and vicinity.

464 Seventeenth extract (p. 1100).

In 1849 the rice crop of the Pillagers (Ojibwa of Leech Lake, Minnesota, numbering about 1,050) entirely failed, and on this article they depended mostly for their winter's support. "Hunger and starvation menace them; and in order to procure means of subsistence their hunters this winter will be forced to press westward till they find the buffalo."[8] The Ojibwa of Sandy Lake, Minnesota, numbering about 300, lost their rice both in 1849 and in 1850. The majority of them passed their winters in the vicinity of Crow Wing and Fort Gaines, Minnesota, on ceded lands, hunting and begging for a living.[9] The Sug-wun-dug-ah-win-e-wug (Ojibwa in Minnesota north of Lake Superior) also lost their rice crop in 1850, "and this people anticipate with aching hearts the sufferings and privations of the approaching winter."[10] These Indians also depended much upon rabbit and reindeer for winter consumption.

Eighteenth extract (pp. 1106–1107).

Indian population of the wild-rice district

It is believed that the section of country in the United States which grew wild rice so abundantly—that is, the northeastern and northern parts of Wisconsin and the part of Minnesota east of the Mississippi River—sustained an Indian population equal to all the other country known as the Northwest Territory, viz, all those States lying between the Ohio and Mississippi Rivers and Lakes Superior and Huron. This would include southwestern Wisconsin, Illinois, Indiana, Ohio, and Michigan (see Figure 48). This statement applies to the period when the Indian lived by aboriginal and not by civilized production. Estimates of the Indian population will be presented to substantiate the belief. Roughly speaking, the wild-rice district is about one-fifth of the entire territory considered.

Mr. S. S. Hebberd[11] said of this section of the United States:

"In fine, the six States lying east of the Mississippi and north of the Ohio—excluding northeastern Wisconsin[12]—contained a popula-

[4] Biddle, Recollections of Green Bay in 1816–17, in Wisconsin Historical Collections, Vol. I, p. 63.
[5] Featherstonhaugh, Canoe Voyage, pp. 331, 335, 336.
[6] Henry Youle Hind, Narrative, pp. 115, 116.
[7] Caleb Atwater, Indians of the Northwest, p. 181; see also Life of George Copway, p. 65, for immense flocks of duck feeding on the wild rice each fall in Rice Lake, Ontario, Canada; also Ellis, Recollections, concerning wild fowl in Wisconsin rice fields.
[8] Indian Affairs Report, 1850, p. 57.
[9] Ibid., p. 56.
[10] Ibid., p. 59.
[11] Hebberd, History of Wisconsin under the Dominion of France, p. 32 et seq.
[12] There are only five States in the included territory.

tion in 1670 of less than twelve hundred warriors (1,200) or eight thousand (8,000) souls * * *. Turning now to northeastern Wisconsin we behold a wonderful contrast. Stretched along both sides of Green Bay and the Fox River as far south as Green Lake County was a territory about one hundred and thirty-five miles long and of an average width of thirty miles, which fairly teemed with human life. In the north, and on the islands and along the eastern shore of Green Bay, were the Pottawattamies, a docile people,
465 with a keen instinct for trade, who were seeking to become the middlemen in the commerce between the French and the tribes farther west; they numbered not less than five hundred warriors (500).[13] Across the bay were the Menominees, settled upon the river of the same name, a brave but peaceful people."

Charlevoix said of the Menomini,[14] "they are very fine men and the best shaped in all Canada." Cadillac is very flattering in his remarks of them.[15] At the mouth of the Fox River was a mixed village gathered from four or five different tribes; a little distance up the river were the Winnebago. Mr. Hebberd thinks that the number of the Winnebago, Menomini, and of the mixed village, could not have been less than 600 warriors. On the west side of Fox River were the Sauk, who numbered 400 warriors. A little way up the Wolf River were the Fox Indians, who numbered about 800 warriors, while southwest of these, on Fox River, was the great palisaded town where the Maskotin and Miami dwelt peacefully together. "Farther on, enveloped in the wild-rice marshes, were other towns of the Kickapoos and Mascoutins; all of these tribes together could not have numbered less than the Foxes (800 warriors)."[16] Here then in this narrow strip of territory was a population of thirty-one hundred (3,100) warriors, or at least twenty thousand (20,000) souls, nearly three times the number that roamed in the vast expanse of surrounding solitude."[17]

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[13] Hebberd based his estimate, in part at least, on the statement that 300 warriors from this tribe came to Allouez at one time at Chequamegon Bay (Allouez, Relations des Jésuites, 1667).

Père Gabriel Dreuillettes said that they had 700 warriors, or 3,000 souls; besides, there were with them 100 men of the Tobacco nation (Relations des Jésuites, 1658, p. 21). This statement seems fully to justify Mr. Hebberd's estimate.

[14] Charlevoix, Journal, Vol. III, letter XX, pp. 291, 292.

[15] Les Malhominy ou Folles Avoines sont ainsi appelez à cause de la rivière où leur village est situé, qui produit une quantité prodigieuse de folle avoine, qu'ils recueillent et ramassent comme nous faisons nos bleds * * * Cette nourriture est saine * * * Ils ne sont pas si bazanez que les autres, et s'ils ne se graissoient pas, ils surpasseroient les Francois en blancheur. Les femmes sont aussi assez jolies et plus humaines que celles de leurs voisins" (Margry, Decouvertes, Vol. V, p. 121).

[16] Perrot, Memoire sur les Moeurs * * * des Sauvages, p. 127, gives the population of the principal town of the Maskotin and Miami as 4,000 souls; and Allouez, Relations des Jesuites, 1670, gives it as 800 warriors. See also map of the year 1670–71, in Relations des Jésuites, for distribution of Indian tribes in the Green Bay district.

[17] From facts already given, Mr. Hebberd seems justified in his estimate of the Indian population in the wild-rice district of eastern Wisconsin about the year 1670. At any rate, the thesis of this paragraph which Mr. Hebberd's

466 Nineteenth extract (p. 1115).

One of the simplest and most natural reasons for calling a particular locality by a definite name is that that locality is characterized by some one product. This is the way that a great deal of America was named by her primitive people. There is "Trout Lake," "Elm Lake," "Sugar Camp Lake," "Rat Lake," "Beaver Lake," "Rice Lake," "Wolf River," "Big Rice River," "Little Rice River," etc. Such names become fixed by continuouos use, and often persist long after the object for which they were given has perished.

The purpose of this chapter is to throw further light upon the extensive habitat of wild rice, and the importance of the grain to the Indian. It is desirable to call attention to the fact that some of the places which now bear the name of "Rice" were not so named by the Indian. It will be noticed that the Siouan name for wild rice is found only west of the Mississippi River, except as it is applied to a few small streams immediately tributary to this river from the east, while the Algonquin names dominate the territory east of the river. The explanation of this is the fact that the Dakota Indians were nearly all driven from the territory east of the river before the white man learned their local geographic names. After that time the Indian languages throughout the wild-rice district east of the Mississippi River were Algonquin, with the single exception of that of the Winnebago, who speak the Siouan language.

The dominance of the French in this district during the period of the fur trade explains the prevalence of French geographic names. The making of English names is going on to-day as in the past. Names referring to wild rice are given because of the prevalence of the grain, or are a translation of an Indian or French term.

Twentieth extract (p. 1126).

This chapter presents over one hundred and sixty places which have borne a name synonomous with wild rice. Of these some few are doubtless duplicates, though great care has been exercised to avoid such.[18]

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facts are here given to substantiate can hardly be doubted thus far. The population of the wild-rice district of the sources of the Wisconsin, Chippewa, and St. Croix Rivers, of the eastern branches of the Mississippi River, and the southern and western feeders of Lake Superior is not numbered in his estimate. At a very low figure it had 8,000 souls.

For the disposition of these various tribes see Map of New France (parts of the United States and Canada), 1616–1791, to illustrate The Jesuit Relations and Allied Documents, with Volume I of Thwaites' edition of Jesuit Relations.

[18] The material for this chapter has been collected from books, maps, and atlases. It is often impossible to locate the places mentioned in the first class of sources. Old maps are not detailed or authentic enough for strict accuracy. The counties of northern Wisconsin and Minnesota have not been surveyed so that accurate county atlases may be made, while in all of the States which grow wild rice few atlases have been made. Inasmuch as it is the smaller lakes and ponds which bear wild-rice most abundantly, there are many bodies of water locally bearing a name for wild rice which the present maps do not show.

When it is called to mind how the North American Indians and those following them were led to name a certain place by its characteristic product, a better perspective is obtained for viewing the importance of wild rice as a food-supply during the period of aboriginal production.

After a cursory comparative study it is believed that more geographic names have been derived from wild rice in this relatively small section of North America than from any other natural vegetal product throughout the entire continent.

467 DOCUMENT 48

[Extract from "Wild Rice," U. S. Department of Agriculture Circular No. 229, August, 1922, p. 16.]

The Indians of the upper Mississippi Valley were using the seed of wild rice for food when that region was first explored by Europeans. Among certain tribes it is one of the principal articles of diet to this day. The earlier settlers, traders, and hunters recognized the food value of this seed and ate it, especially on their hunting and fishing expeditions. The grain is considered by many a great delicacy and is frequently served in the best hotels and restaurants with game. It is nutritious and very palatable and probably would be more generally used if its food qualities were better known. The grain after being parched is used by the Indians in soups or stews. It makes a very attractive dish when boiled and served as a vegetable with meat. It could readily take the place of potatoes and cultivated rice in our dietary. The quantity of grain that is available for the general trade, however, is never large, because the Indians who gather it sell only what they do not need for their own use. This surplus always is small and in consequence the price is high, which does not contribute to its popularity.

468 DOCUMENT 49

[Report of H. W. Dietz, supervising engineer, Indian Irrigation Service, to Commissioner of Indian Affairs, August 15, 1918, on situation at Wild Rice Lake, White Earth Reservation, Minnesota. Original on file in Bureau of Indian Affairs.]

DEPARTMENT OF THE INTERIOR,
UNITED STATES INDIAN IRRIGATION SERVICE,
SUPERVISING ENGINEER,
Salt Lake City, Utah, August 15, 1918.

The COMMISSIONER OF INDIAN AFFAIRS
(Through Office of Chief Engineer, U. S. Indian Irrigation Service, Washington, D. C.).

DEAR SIR: In response to instructions received from the chief engineer, I left Salt Lake City on June 29th for White Earth Indian Reservation, Minnesota, to investigate the conditions pertaining to the proposed drainage of Wild Rice Lake.

I find that Wild Rice Lake is situated about twenty-five miles northeast of the White Earth Agency and obtains its name from the fact that wild rice is produced abundantly in the shallow waters of the lake. It has several small streams running into it, and is drained by the Wild Rice River. This river at the outlet to the lake is a small stream running, at the time of my visit, about 8 second feet.

The area within the boundary of the lake aggregates about 1,650 acres but the land adjacent to the shore and for perhaps a half a mile back of the same is marshy and unfit for cultivation in its present state.

Certain farmers living from eight to ten miles northeast of Wild Rice Lake have petitioned the county of Clearwater to have their lands drained to make them fit for cultivation. The county organized a district including therein, not only the lands owned by the petitioners but all the marsh land adjacent to Wild Rice Lake, which it appears is owned by the State of Minnesota. This land is all marsh land, and when drained can be made to produce native hay and grasses, yielding about one ton per acre and valued from $6.00 to $8.00 per ton.

469 To reclaim this land it is proposed to extend the upper drain ditch thru the lower end of the lake and down the river about two miles or sufficiently far to lower the lake. The plans for this portion of the work have never been reduced to paper and the information I have was gleaned from conversation with the county surveyor under whose direction the work was to be accomplished. He informed me that it was intended to construct a ditch with twenty foot bottom, and from two to six feet deep. While he declared it was the intention to lower the lake but two feet it is evident that the proposed ditch will practically wholly drain the same.

The first unit of the drainage work has already been completed, this is off the reservation and has no effect upon Wild Rice Lake other than that it drains into the lake. This fact can not in any way interfere with the rice industry.

The second unit of the work involves the drainage of a small lake, also above Wild Rice Lake and likewise having no objectionable features as far as the rice industry is concerned. This small lake is called Tamarack and the map shows the same to be meandered. I believe no one has a right to drain the same without consent of the Government and as to permit the lake to be drained without protest might establish a precedent which could be used in further draining Wild Rice Lake. I believe a protest or even an injunction should be filed against such draining until the same had been approved by the proper authorities.

The contractor undertaking this desires to accomplish the same by means of a floating dredge which he can also use through Wild Rice Lake. The county surveyor has assured me that the contractor will not move the dredge on the job for the small lake alone

and on account of objections raised by the Indians to draining the larger lake, the work has been indefinitely discontinued.

The only objection to draining Wild Rice Lake lies in the fact that the Indians for years have harvested the wild rice from the lake. While the lake covers 1,650 acres, in reality there are but 100 acres of open water, the balance being one massive field of wild rice.

In the fall of the year the Indians in great numbers move their camps to the margin of the lake and spend about two
470 weeks in harvesting the rice. As nearly as I could ascertain there were at least 230 families represented in this enterprise last year, meaning of course a very much greater number of individuals. I also learned they harvested from 400 to 1,200 pounds per family, and an average of 750 pounds per family or an aggregate of 172,500 pounds. On account of crude methods and the fact that the whole lake was not gone over, this represents but a small percentage of the total which might have been obtained.

Upon considering all the facts gathered from several sources I was amazed at the possibilities of this industry. A conservative estimate of the yield of this rice places it at 10 bushels to the acre, tho I have been given figures varying from 15 to 50 bushels. At this figure, however, the 1,550 acres would produce 15,500 bushels, which at 50 pounds per bushel would aggregate 775,000 pounds. This year the Indians obtained from 20¢ to 50¢ per pound for the rice with a prevailing price, however, of 25¢, which would make the crop valued nearly $200,000. The cost of production was practically nil, but assuming that 600 Indians worked 20 days at $2.00 per day, the net income would still be in the neighborhood of $170,000.

Do not understand that the Indians actually obtain this amount, for it is doubtful if they average more than 30%, as stated, on account of crude methods and partial harvesting only. But the value still exists and could be obtained by proper direction and careful methods.

With this return possible it will be seen that the rice industry of this lake is an important and valuable one indeed.

The Indians in gathering the rice go out on the lake in their boats and bending the heads over the boat knock the ripe rice into the boat with sticks. As all the rice does not ripen at once, they have to go over the lake about three times.

In order to have sufficient water to float their boats the Indians build a dam each fall across the outlet of the lake to slightly raise the level of the water. This is also done in order that the water will hold up the ripening rice, which would otherwise fall
471 over from its weight and because of the wind. Thus it can be seen that it is important to keep the water regulated to the proper depth.

For a period of six years the Wild Rice Lumber Company dammed the outlet of the lake and used the impounded waters in their log drives. This destroyed the wild rice industry for that period and

during that time the Indians are said to have suffered poverty and hunger.

It is claimed by those interested in the drainage project that the controlling works of the lumber company, which are still in place but not in use, hold the lake surface about two feet above its former normal level. There appears to be about one-half a foot fall in the river between the outlet and the gates, which are about two miles below, and the water is about one foot deep. This being true, it seems impossible that the gates when open can have any effect upon the lake level. The appearances of the lake shore do not bear out the statement that the water is now two feet above the former level. Also the testimony of reliable and intelligent Indians is to the effect that the lake level is now at its normal elevation.

I understand that by some sort of an arrangement between the State and Federal authorities the former was granted title to all swamp areas within the State. If this area was determined during the period of operation of the Wild Rice Lumber Company it is probable that the State has been granted land classed as swamp which under normal conditions should not have been so classified, and I think this matter might well be investigated.

The above sets forth the facts of the matter as well as I could gather them from various sources of information and from personal inspection of the ground. I made two trips to Wild Rice Lake and drove to the county seat of Clearwater County and thence to the town of Gonwick, the home of the county surveyor. By appointment I later met this man at Wild Rice Lake and made a hasty survey to determine the relative elevations of the old gates and the lake surface.

My conclusions are as follows:

The plans of the county to drain the adjacent land by lowering the lake two feet would nearly totally destroy the rice industry. This plan is not necessary to the drainage of the two upper par-
472 cels of land except in that it adds a large area of State land. greatly reduces the unit cost of the project as a whole, and removes a large portion of the cost from individuals by placing the burden upon the State. It is my opinion that this alone is the reason back of the desire to drain the lake.

The culture and harvesting of wild rice is of such importance and value to the Indians that it would be a great injury to deprive them of this source of income and sustenance, and if they have any legal right to the use and enjoyment of the lake it should be retained for that purpose.

Close watch should be kept of the work and when active steps are taken to drain the Tamarack Lake legal action should be taken to prevent this trespass upon public domain until such time as permit is secured from the proper authorities. This permit should be issued in the end, as this small lake is in no way used by the Indians.

Permanent injunctions against trespassing upon Wild Rice Lake should be obtained in order to preserve this lake for the use and enjoyment of the Indians.

Respectfully submitted.

H. W. DIETZ,
Supervising Engineer.

473 DOCUMENT 50

[Bill of Complaint in United States v. County of Clearwater et al., United States District Court, District of Minnesota, Sixth Division. No. 108 Equity.]

THE UNITED STATES OF AMERICA, PLAINTIFF vs. COUNTY OF CLEARWATER, O. E. EVENVOLL, T. O. Nelson, H. K. Rude, John G. Veit, jr., Ben T. Sorenson, Christian Sorenson, and J. T. Flanagan Construction Company, a corporation, defendants	In Equity

To the Honorable Judges of the District Court of the United States in and for the District of Minnesota:

The United States of America brings this bill of complaint against O. E. Evenvoll, T. O. Nelson, and H. K. Rude, whose full names are to the plaintiff unknown; John G. Veit, jr., Ben T. Sorenson, and Christian Sorenson, as Commissioners of Clearwater County, in the State of Minnesota; J. T. Flanagan Construction Company, a corporation, and the county of Clearwater in the State of Minnesota, and thereupon plaintiff complains and alleges:

That this suit is instituted by and under the direction and authority of the Attorney General of the United States, that the defendants O. E. Evenvoll, T. O. Nelson, H. K. Rude, John G. Veit, jr., Ben T. Sorenson, and Christian Sorenson, are the duly elected, qualified and acting commissioners of said county of Clearwater; that said J. T. Flanagan Construction Company is a corporation, duly organized and existing under the laws of the State of Minnesota; that the county of Clearwater is and was at all times hereafter mentioned, a municipal corporation, duly organized and existing under and by virtue of the laws of the State of Minnesota, being a part thereof.

474 Plaintiff further shows that by Article II of a treaty made and concluded March 19, 1867, (16th Statutes at Large, 719) between the plaintiff herein and the Chippewas of the Mississippi, the following provision was made, namely:

"In order to provide a suitable farming region for the said bands there is hereby set apart for their use a tract of land, to be located in a square form as nearly as possible, with lines corresponding to

the Government surveys; which reservation shall include White Earth Lake and Rice Lake, and contain thirty-six townships of land; and such portions of the tract herein provided for as shall be found upon actual survey to lie outside of the reservation set apart for the Chippewas of the Mississippi by the second article of the treaty of March 20th, 1865, shall be received by them in part consideration for the cession of lands made by this agreement."

As a result of said provision, thirty-two townships, which townships include said Rice Lake, commonly called Wild Rice Lake, were set apart for the Chippewas of the Mississippi; a large portion of said tract of land being in Clearwater County, in the State of Minnesota, said tract being commonly called and hereafter referred to as the White Earth Reservation. That said reservation is largely inhabited by Chippewa Indians, who are under guardianship and supervision of the plaintiff herein, and that the title to a greater portion of said reservation, including lands adjoining the aforementioned Rice Lake, commonly called Wild Rice Lake, is held by the United States in trust for said Chippewa Indians, now occupying said lands.

Plaintiff further shows that said Chippewa Indians, wards of the plaintiff, residing upon the said White Earth Reservation, have yearly gathered wild rice from the aforesaid Rice Lake, of the estimated value of $50,000.00; the said rice being a very important source of income to the aforesaid Chippewa Indians, and also furnishes them the necessary food.

Plaintiff further shows that on or about the 16th day of October, 1916, under the statutes of the State of Minnesota, a petition of certain inhabitants of Clearwater County, none being Chippewa Indians, was filed with the commissioners of said Clearwater County, praying the establishment of a certain ditch draining
475 a large portion of the aforesaid Rice Lake or Wild Rice Lake, and after a hearing on said petition had on June 7, 1917, the said proposed ditch was established and designated as County Ditch No. 3. That on the 27th day of July, 1917, a contract for the construction of said ditch was entered into between the defendant J. T. Flanagan Construction Company, a corporation, and the defendant County of Clearwater, which contract provides that the defendant J. T. Flanagan Construction Company, shall excavate Rice River, the outlet of said Rice Lake, and thereby lower said Rice Lake.

Plaintiff further shows that said Rice Lake is a shallow body of water, covering about 1,650 acres, of which area about one hundred acres is open water, the balance being a massive field of wild rice. The construction of said proposed County Ditch No. 3, through said lake would practically drain the entire lake and entirely destroy the growth of wild rice thereon, and thereby cause the said Chippewa Indians, wards of the plaintiff, irreparable damages.

Plaintiff further states that if the defendants are permitted to proceed with the construction of said county ditch No. 3, as they threaten and intend to do, the same will cause the said Chippewa

Indians, wards of the plaintiff, great suffering and injury, and will affect the lands held by the plaintiff in trust for said Chippewa Indians.

Plaintiff further states that it is without any plain, adequate, and speedy remedy at law, and can only have relief in a court of equity, and that irrevocable injury will be inflicted upon the plaintiff in this case unless this honorable court enjoins the defendants in carrying out the aforesaid contract, especially that portion thereof wherein the defendants are to undertake the lowering or draining of the aforesaid Rice Lake.

Wherefore, plaintiff prays that this court issue a writ of injunction according to the ordinary course and practice of this court in such case made and provided, directing, commanding, enjoining, and restraining the said defendants, their agents, attorneys, servants, deputies, and all persons claiming to act for, through, or under them,

476 and each and every person whomsoever, from proceeding under the aforesaid contract, especially that portion thereof wherein the aforesaid Rice Lake would be drained, and also enjoining and restraining said defendants from taking any steps or proceedings to lower or drain the aforesaid Rice Lake.

And such other and further relief as the facts and circumstances of the case warrant and require.

ALFRED JAQUES,
United States Attorney.

[Verification omitted.]

477 DOCUMENT 51

[Answer in cause referred to in document last above.]

THE UNITED STATES OF AMERICA, PLAINTIFF vs. COUNTY OF CLEARWATER, O. E. EVENVOLL, T. O. Nelson, H. K. Rude, John G. Veit, jr., Ben T. Sorenson, Christian Sorenson, and J. T. Flanagan Construction Company, a corporation, defendants	In Equity. No. 108

Answer

Come now the defendants, county of Clearwater, O. E. Evenvoll, T. O. Nelson, Ben T. Sorenson, H. K. Rude, John G. Veit, jr., and Christian Sorenson, and for answer to the complaint herein aver that plaintiff has not legal capacity to sue herein and deny:

I. That said White Earth Reservation is largely inhabited by Chippewa Indians, who are under the guardianship and supervision of the plaintiff.

II. That the title to the greater portion of said reservation is held by the United States in trust for said Chippewa Indians.

III. That the said title to the lands adjoining said Rice Lake is held in trust by the United States for said Chippewa Indians.

IV. That any of said Chippewa Indians occupy any of the lands adjoining said Wild Rice Lake.

V. That they have any knowledge or information sufficient to form a belief that the Chippewa Indians, wards of plaintiff, have yearly gathered wild rice from said Rice Lake or the value thereof.

VI. That they have any knowledge sufficient to form a belief that said wild rice is a source of income of said Chippewa Indians or that it furnishes them the necessary food.

478 VII. That the construction of the proposed county ditch No. 3 would drain the entire lake.

VIII. That the construction of said ditch would entirely destroy the growth of wild rice thereon or would cause said Chippewa Indians irreparable damage or any damage whatever.

IX. That the construction of said ditch will cause said Chippewa Indians, wards of the plaintiff any suffering or injury whatsoever, or will effect the lands held by plaintiff in trust for said Indians.

X. That irrevocable injury or any injury will be inflicted upon the plaintiff unless the honorable court enjoins the defendants from carrying out the said contract or any portion thereof.

Further answering defendants admit that said Wild Rice Lake is a shallow body of water of the approximate area mentioned in the complaint, and further answering, defendants allege:

1. That since the making of said treaty mentioned in the complaint (16th Statutes at Large, 719) and pursuant to the Nelson Act of January 14, 1889 (25th Statutes at Large, 642) the Chippewas of the Mississippi relinquished to the plaintiff all the riparian lands of said Wild Rice Lake, and the said plaintiff has since said time conveyed the same to the State of Minnesota, and said State has in turn conveyed the same to individuals.

2. That the major portion of the lands of the said reservation has been allotted and conveyed by plaintiff to Mixed Blood Chippewa Indians, who since March, 1907, have held said lands in fee simple and since said time are amenable to the laws of the State of Minnesota and are citizens thereof.

3. That notice of the hearings of the proceedings to establish said ditch No. 3, describing the routes and termini thereof with description of the lands through which it would pass, and the lands affected thereby, was published in the official and legal newspaper in Clearwater County, Minnesota, and that no one protested or objected to the establishment thereof, and that upon the same having been established, said county of Clearwater negotiated and sold

479 its bonds in the sum of more than twenty-six thousand dollars to obtain funds to defray the expense of the construction of said ditch, and in the year 1916.

4. That the route of said ditch follows in the main the course of a small stream known as Mosquito Creek, which empties in said Rice Lake a short distance from the outlet thereof.

5. That said Rice Lake is shallow and grassy and of a marshy character, and is traversed its entire length by the Wild Rice River; that a short distance from the outlet of said lake, and across said river, the Wild Rice Boom and Improvement Company, a corporation, some years in the past, has constructed a dam for the purpose of retaining the waters of said lake to use for driving logs, and that on the upper side of said dam alluvial soil has, since the construction of said dam, accumulated to a depth of more than three feet; that said dam has been abandoned by said boom company and is no longer of any practical utility; that it is proposed by the construction of said ditch to remove said alluvion, and to restore said river and lake to its original and natural condition;

6. That wild rice does not thrive in great depths of water, and that by restoring said river and lake to its original and natural condition, wild rice in said lake will thereby be made more abundant, and at the same time large areas of waste land will be reclaimed to agriculture.

7. That it is the purpose and intention of said defendant Clearwater to construct and maintain gates in said dam, and to so operate the same so as to permit flood waters to escape and drain, and to maintain the waters in said Wild Rice Lake at a proper and reasonable height.

WM. A. MCGLENNON,
Attorney for Answering Defendants,
Bagley, Minnesota.

Usual verification dated Nov. 14, 1919.

480 DOCUMENT 52

[Letter of July 15, 1922, from "Chief John W. Stevens, representing the Chippewa Indians of White Earth Reservation," to Commissioner of Indian Affairs, relating to drainage of Rice Lake. Interior Department files.]

LENGBY, MINN., *July 15, 1922.*

C. H. BURKE,
Commissioner of Indian Affairs, Washington, D. C.

DEAR SIR: By referring to the inclosed letter you will see that an action is pending against Clearwater County, Minn., restraining them from draining Rice Lake. A crew of men with machinery are now at work draining the lake, they have worked there all summer and pretty soon the lake is drained and all the rice of which we expected to live next winter is now being destroyed and we will have to starve as a consequence. What we want to know is if you would not give us permission to dam the water, so as to retain it in the lake until harvest time, thus saving the rice for us

for this year. If you can give us this permission kindly do so at once so that we may save the rice.

Yours truly,

CHIEF JOHN W. STEVENS,
Representing the Chippewa Indians of White Earth Reservation.

481 DOCUMENT 53

[Letter of August 2, 1922, from the United States attorney to the Attorney General, concerning suit about Rice Lake. Department of Justice files.]

[WA-MJ

DEPARTMENT OF JUSTICE,
OFFICE OF UNITED STATES ATTORNEY,
DISTRICT OF MINNESOTA,
St. Paul, August 2nd, 1922.

THE ATTORNEY GENERAL,
Department of Justice, Washington, D. C.

SIR: Your letter of July 31st, 1922, R-CSE-188552-15, regarding the drainage of Wild Rice Lake in the White Earth Indian Reservation of this State has my attention. Injunction proceedings were started some two years ago and the matter has never been brought on for hearing because of an understanding between the county officials and this office that nothing further would be done in the drainage of the lake until we were notified. Upon the receipt of your letter to-day I have requested the superintendent of the White Earth Reservation to ascertain the true facts and notify me. Upon receipt of this information if the lake is being drained and the facts justify I will attempt to secure a temporary restraining order.

I will keep you advised of the steps taken herein.

Respectfully,

(Signed) LAFAYETTE FRENCH, JR.
United States Attorney.

482 DOCUMENT 54

[Letter of August 10, 1922, from Superintendent Wadsworth, Consolidated Chippewa Agency, Cass Lake, to United States Attorney French, concerning drainage of Rice Lake. Department of Justice files.]

CONSOLIDATED CHIPPEWA AGENCY,
CASS LAKE, MINNESOTA,
August 10, 1922.

Hon. LAFAYETTE FRENCH, JR.,
United States Attorney, St. Paul, Minn.

DEAR SIR: Replying to yours of the 2nd inst., I wish to say that I asked my field man in the White Earth country to investigate the

reported drainage of Wild Rice Lake, and I have been informed by him that a drainage ditch was dug from this lake under a contract which provided for the lowering of this lake to the natural stage of water. This work was done after a petition had been circulated in Clearwater County asking for this work and was done by the county authorities of Clearwater County.

It is my impression that the majority of the land affected by this ditch is owned by white settlers who have bought the land from the Indians and, since these white people are taxpayers, I believe that the wishes of a majority of them with reference to this drainage proposition would be sufficient authority for the county authorities to proceed with this work.

Considerable complaint has reached this office about the drainage of this lake, owing to the fact that this drainage proposition will probably spoil the wild-rice fields for the Indians, but the White Earth Indians must come to realize that their country is now a settled community and that waste lands must be converted into farms if possible.

Very respectfully,

P. R. WADSWORTH,
Superintendent.

FJS:MC]

483 DOCUMENT 55

[Letter of October 18, 1922, from the Assistant Secretary of the Interior to the Attorney General, concerning Rice Lake suit. Department of Justice files.]

DEPARTMENT OF THE INTERIOR,
Washington, Oct. 18, 1922.

The honorable the ATTORNEY GENERAL.

DEAR MR. ATTORNEY GENERAL: I have the honor to refer again to your letter of August 18, 1922 (R CSE 18852–17), receipt of which was acknowledged on September 8, 1922, in re United States vs. County of Clearwater, et al., United States District Court, District of Minnesota.

The Commissioner of Indian Affairs has advised the department that he has received a report from the superintendent of the Consolidated Chippewa Agency to the effect that the construction of the drainage ditch, for which a writ of injunction was prayed, has been fully accomplished, and incidentally that the drainage of Wild Rice Lake has ruined the present rice crop. The superintendent further states:

"Since this drainage project is merely one of the steps in the development of former Indian country, which is rapidly becoming a settled white community, it is thought that the action taken by the taxpayers was for the best interests of the community as a whole."

484 In view of the present situation, it is apparent that injunction proceedings would prove ineffectual; and I respectfully recommend that your department take no further action in injunction proceedings and that the suit instituted in 1919 be dismissed.

Respectfully,

F. M. GOODWIN,
Assistant Secretary.

485 DOCUMENT 56

[Letter of February 19, 1923, from the United States Attorney to the Attorney General, reporting dismissal of suit concerning Wild Rice Lake. Department of Justice files.]

WA:MJ

OFFICE OF UNITED STATES ATTORNEY,
DISTRICT OF MINNESOTA,
St. Paul, February 19, 1923.

THE ATTORNEY GENERAL,
Department of Justice,
Washington, D. C.

SIR: Reference is made to a letter of December 28, 1922, JDH-24 x 20–3, regarding report made upon this office by Examiner Smith. The last paragraph of the letter refers to a detailed list of cases commenced prior to January 1, 1921, and which at the time of the examination were still open.

The case of the United States against the County of Clearwater being Equity No. 108 pending in the 6th division of this district, which was a suit to enjoin the county from constructing a certain ditch, was dismissed on the 9th day of December, 1922, which dismissal was authorized by the department in its communication of October 20, 1922, R–CSE–188552–21.

Respectfully,

LAFAYETTE FRENCH, JR.,
United States Attorney.

486 DOCUMENT 57

[Bill of Complaint in *Charles Wakefield* v. *United States*, in the District Court of the United States, District of Minnesota, Sixth Division, No. 118 Equity.]

CHARLES WAKEFIELD, PLAINTIFF vs. THE UNITED STATES OF AMERICA, DEFENDANT	No. 118 in Equity

The plaintiff herein brings this his bill of complaint against the United States, and respectfully shows:

1. That the full name of the plaintiff is Charles Wakefield, and that he is a citizen and resident of the State and district of Minnesota.

2. That plaintiff is in part of Indian blood or descent and is entitled to an allotment of land on the White Earth Indian Reservation under the acts of Congress relating to allotments on said reservation and particularly under the act of Congress of April 28, 1904, entitled "An act to provide allotments to Indians on White Earth Reservation" (33 Stat. at L. 539, chap. 1786). That plaintiff brings this suit under the authority and provisions of the act of Congress of August 15, 1894 (28 Stat. at L. 305, chap 290), as amended by the act of Congress of February 6, 1901 (31 Stat. at L. 760, chap. 217).

3. That plaintiff is a member of the Chippewa Tribe of Indians for whom there was created and set aside the White Earth Indian Reservation in Minnesota by that certain treaty of April 18, 1867, between the United States and the Mississippi Band of Chippewa Indians, and became entitled to an allotment of land on said reservation under the terms and conditions of the act of Congress of February 8, 1887 (24 Stat. at L. 388, chap. 119), the act of
487 Congress of January 14, 1889 (25 Stat. at L. 642, chap. 24), and the act of Congress of April 28, 1904 (33 Stat. at L. 539, chap. 1786).

4. That this plaintiff applied for and was duly given an allotment under the specific provisions of the act of Congress of January 14, 1889, cited above, and received a trust patent or trust deed therefor as provided in the act of Congress of February 8, 1887, cited above.

5. That plaintiff thereafter made due and proper selection and application to the proper officers of the United States charged with the care of such matters to have allotted to him, this plaintiff, an additional allotment of eighty acres upon the said White Earth Indian Reservation, which lands so selected and so applied for are described as follows:

Southwest quarter of the southeast quarter (SW. ¼, SE. ¼) of section two (2), township one hundred forty-five (145), range forty (40), and the northeast quarter of the northeast quarter (NE. ¼, NE. ¼) of section thirty-four (34), township one hundred forty-six (146), range forty (40).

6. That as this plaintiff is informed and believes and charges the fact to be, his selection was placed upon the schedule of selections of allotments in the office of the Indian agent at White Earth, Minnesota, and that on said schedule the lands above described were designated as and for the additional allotment of this plaintiff; upon information and belief, that said schedule was forwarded to the City of Washington, D. C., and there presented to the Secretary of the Interior for his approval, as provided by law.

7. Plaintiff further alleges that the Secretary of the Interior has declined and refused and still does decline and refuse to
488 approve the selection made as aforesaid by this plaintiff as and for his additional allotment, and plaintiff alleges that he has been informed and believes that the reason advanced by the Secretary of the Interior for such refusal is that the State of Min-

nesota makes adverse claim to a portion of the lands so selected and applied for, to wit, the southwest quarter of the southeast quarter (SW. ¼, SE. ¼) of section two (2), township one hundred forty-five (145), range forty (40) under the act of Congress granting swamp lands within the State of Minnesota to the State of Minnesota.

8. That it appears that the State of Minnesota is a proper party to this suit in order to have its adverse claim determined, but that the State of Minnesota is not made a party, because said State is a sovereign power, which can not be sued without its consent, and its consent to be sued herein has not been given.

9. Plaintiff alleges that he has been and is unlawfully denied and excluded from that parcel of land described in paragraph 5 of this bill of complaint to which he was and is lawfully entitled by virtue of the various treaties and laws of the United States herein set forth as relating to allotments of lands on the White Earth Indian Reservation in Minnesota.

Wherefore, plaintiff prays for an order and decree of this honorable court that this plaintiff is entitled to have allotted to him the lands described in paragraph 5 hereof under the provisions of the acts of Congress appropriate thereto, and for such other and further relief as may be just and equitable.

R. J. POWELL,
Solicitor for Plaintiff,
806 First National-Soo Line Building,
Minneapolis, Minnesota.

POWELL, CARMAN & CAIN,
Of Counsel,
806 First National-Soo Building,
Minneapolis, Minnesota.

489 DOCUMENT 58

[Answer of United States in suit last above mentioned.]

CHARLES WAKEFIELD, PLAINTIFF
v.
UNITED STATES OF AMERICA, DEFENDANT
} Answer

Now comes the defendant, and for an answer to the complaint of the plaintiff herein, says that it denies all of the allegations therein contained, not hereinafter admitted, qualified or explained.

I

Defendant admits the allegations contained in paragraphs 1, 2, 3, and 4 of plaintiff's complaint.

II

As to paragraph 5 of said complaint, defendant admits that plaintiff made application to the proper officers of the United States charged with the care of such matters, to have alloted to him as an additional allotment, the following described real estate, to wit: Southwest quarter of southeast quarter (SW. ¼ of SE. ¼), of section two (2), township one hundred forty-five (145), range forty (40), and the northeast quarter of northeast quarter (NE. ¼ of NE. ¼) of section thirty-four (34), township one hundred forty-six (146), range forty (40) west.

III

As to paragraph 6 of said complaint, defendant denies that it has any knowledge or information sufficient to form a belief as to whether the allegations therein contained are true or not.

490

IV

As to paragraph 7 of said complaint, defendant admits that the Secretary of the Interior has declined and refused, and still declines and refuses to approve the selection made as aforesaid by the plaintiff as and for his additional allotment.

V

As to paragraph 8 of said complaint, defendant admits all of the allegations therein contained.

VI

As to paragraph 9 of said complaint, defendant denies all of the allegations therein contained.

As a further defense, defendant alleges that the southwest quarter of southeast quarter (SW. ¼ of SE. ¼), of section two (2), township one hundred forty-five (145), north, range forty (40) west, was granted to the State of Minnesota as swamp land, by swamp land selection list No. 169, and as a consequence, it is not within the power of the United States to grant such land to plaintiff by allotment or otherwise.

Wherefore, defendant asks that it may be adjudged that plaintiff has no cause of action against the defendant, that the action may be dismissed, and that defendant may recover its costs and disbursements herein.

ALFRED JAQUES,
United States Attorney.

491 DOCUMENT 59

[Decree of court in above case, dated July 1, 1921.]

In the United States District Court for the District of Minnesota, Sixth Division

CHARLES WAKEFIELD, COMPLAINANT
v.
THE UNITED STATES OF AMERICA, DEFENDANT
} In equity, No. 118

This cause came on to be heard at the May, 1921, term of this court and was argued by counsel, and thereupon, on consideration thereof it is ordered, adjudged, and decreed as follows:

1. That the plaintiff, Charles Wakefield, is in part of Indian blood or descent and is entitled to an allotment of land within the White Earth Reservation in the State of Minnesota, and particularly under the act of April 28, 1904, entitled "An act to provide allotments for Indians on the White Earth Reservation," and has duly selected as his allotment under said act the southwest quarter of the southeast quarter (SW. ¼ SE. ¼) of section two (2), township one hundred forty-five (145), range forty (40), and the northeast quarter of the northeast quarter (NE. ¼ NE. ¼) of section thirty-four (34), township one hundred and forty-six (146), range forty (40).

2. That the State of Minnesota has not now and never has had any right or title in or to the aforesaid premises, either by reason of its selection under the swamp land act of March 12, 1860, or otherwise.

3. That the above-described tracts of land be, and they hereby are, assigned and allotted to the aforesaid Charles Wakefield, plaintiff herein, as and for his allotment under the aforesaid acts of Congress.

Dated July 1st, 1921.

PAGE MORRIS, *Judge.*

492 DOCUMENT 60

[Agreed Statement of Facts in *United States* v. *Louise O'Connell*, in the District Court of the United States, District of Minnesota, Fifth Division, No. 36, Equity.]

THE UNITED STATES OF AMERICA, PLAINTIFF
VS.
LOUISE O'CONNELL, DEFENDANT
} Equity, No. 36

Agreed statement of facts

It is stipulated and agreed by and between the parties hereto that the above styled action may be presented to the court upon the following agreed statement of facts:

I

The land involved in this action, to-wit: Lot three (3), or the southwest quarter of the northeast quarter of section thirty-five (35), township one hundred forty-five (145) north, range twenty-five (25) west, is embraced in the lands ceded to the United States by the Chippewa Tribe of Indians by treaty of February 22, 1855, and said land is embraced in the lands set apart for the White Oak Point Reservation by Executive order of October 29, 1873, made in pursuance of said treaty.

II

On February 9, 1899, allotment No. 2 was duly made and approved in the name of Kay-bay-no-din, or Sam Reynolds, and on June 15, 1905, there was executed and delivered by the plaintiff to the said Kay-bay-no-din, or Sam Reynolds, a trust patent covering the said lands, to-wit: Lot three (3), or the southwest quarter of the northeast quarter of section thirty-five (35), township one hundred forty-five (145) north, range twenty-five (25) west, which
493 trust patent was recorded in the office of the register of deeds of Itasca County, April 20, 1915, in deed book 32 at page 208.

III

That the said Kay-bay-no-din, or Sam Reynolds, is a Chippewa Indian of the White Oak Point Reservation, and is entitled to receive and hold an allotment and trust patent as a member of said tribe and reservation.

IV

That the said land was selected as swamp land by the State of Minnesota upon the approved Minnesota swamp list No. 198 on February 1, 1912, and thereafter patented by the United States to the State of Minnesota by list No. 199 on June 10, 1912. The said patent to the State of Minnesota is recorded in the office of the register of deeds for Itasca County on August 22, 1913, in deed book 78 at page 123. The State of Minnesota on March 15, 1915, entered into a contract with the defendant Louis O'Connell by which it agreed to convey said land to the said defendant, and on said date issued to the defendant Louise O'Connell a certificate of sale No. 8320 covering the above-described land, the said certificate of sale not being recorded in the office of the register of deeds for Itasca County.

V

It is further stipulated that this agreed statement of facts shall not preclude either party from offering any material and competent evidence.

----------,
----------,
Special Assistant to the Attorney General,
Attorneys for Plaintiff.
----------,
Attorney for Defendant.

494 DOCUMENT 61

[Decree of court in case last above mentioned. Filed April 6, 1918.]

In the District Court of the United States for the District of Minnesota, Fifth Division

THE UNITED STATES OF AMERICA, PLAINTIFF,
vs.
LOUISE O'CONNELL, DEFENDANT
} Equity No. 36

Decree

The above-entitled cause came on for final hearing on the 5th day of November, 1917, R. C. Bell and O. W. Miller, special assistants to the Attorney General, appearing for the plaintiff, and Fryberger, Fulton & Spear, appearing for the defendant. The said cause was submitted upon an agreed statement of facts and argument of attorneys for the plaintiff. Leave was granted to the attorneys for the defendant to file a brief within five days. No brief has been filed. Now, upon due consideration, it is by the court ordered, adjudged, and decreed as follows, viz:

That the plaintiff, the United States of America, is the owner of and entitled to the possession of that certain parcel of land described in the bill of complaint, to-wit: Lot three (3) or the southwest quarter of the northeast quarter of section thirty-five (35), township one hundred forty-five (145) north, range twenty-five (25) west, situated in the county of Itasca and State of Minnesota, subject only to the rights and interests acquired by the Indian allottee named Kay-bay-no-din, or Sam Reynolds, according to a so-
495 called trust patent issued to him on or about the 15th day of June, 1905, as allotment No. 2;

That each of the following described instruments of conveyance, in so far as they affect the title to the said described parcel of land, are, and each of them is, hereby declared to be null and void and of no force and effect, and are hereby set aside, cancelled, and vacated, to-wit:

That certain so-called patent issued to the State of Minnesota in list No. 199 on June 10, 1912;

That certain certificate of sale No. 8320, issued by the State of Minnesota to the defendant, Louise O'Connell, on or about the 15th day of March, 1915;

That the said defendant Louise O'Connell, or any other person or parties claiming by, through or under her, has no right, title, or interest in and to the said described parcel of land, or any part thereof, and she is forever barred and restrained from claiming or asserting any such rights or interest by reason of the conveyances hereinbefore enumerated, or for any reason, and the title of the plaintiff herein, the United States of America, is quieted and settled; and it is further ordered that the plaintiff recover of the defendant the costs of this action to be taxed by the clerk.

Dated this 6th day of April, 1918.

PAGE MORRIS,
Judge.

(Indorsed:) Decree. Filed April 6, 1918.

CHARLES L. SPENCER,
Clerk.

By E. CATHERINE NEFF,
Deputy Clerk.

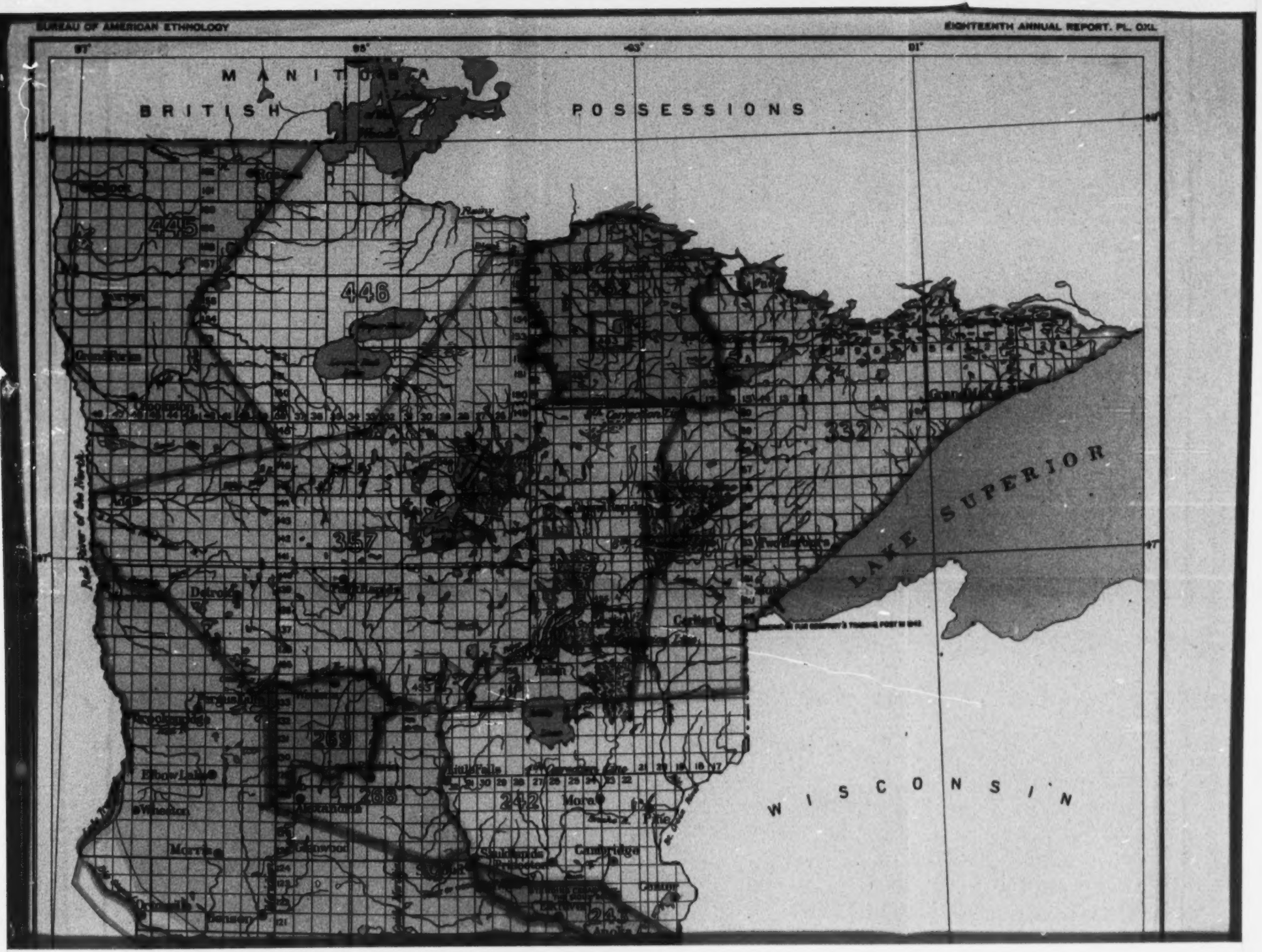
501 *Stipulation as to patents issued to Chippewa Indians*

It is stipulated and agreed that substantially all, being not less than ninety-eight per cent of the Chippewa Indians, beneficiaries under the act of January 14, 1889, were born and reside and always have resided within the territorial limits of the United States, and that at the time of the commencement of this suit substantially all of the Chippewa Indians, beneficiaries under said act who were entitled to allotments under said act and the general allotment act of 1887, being approximately two-thirds of the entire number, had received patents under the provisions of said acts, said patents having been issued as follows: Trust patents issued prior to the approval of the act of May 8, 1906, amending the general allotment act, six thousand seven hundred and ninety-two; trust patents issued since that time and prior to the commencement of suit, thirteen hundred and sixty-nine; fee patents issued prior to commencement of suit, four thousand eight hundred and thirty-one; fee patents issued since commencement of suit, two hundred and thirty-two.

THE UNITED STATES OF AMERICA,
By W. W. DYAR,
Special Assistant to the Attorney General.
THE STATE OF MINNESOTA,
By CLIFFORD L. HILTON,
Attorney General of Minnesota.

502 [Title omitted.]

○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268
242
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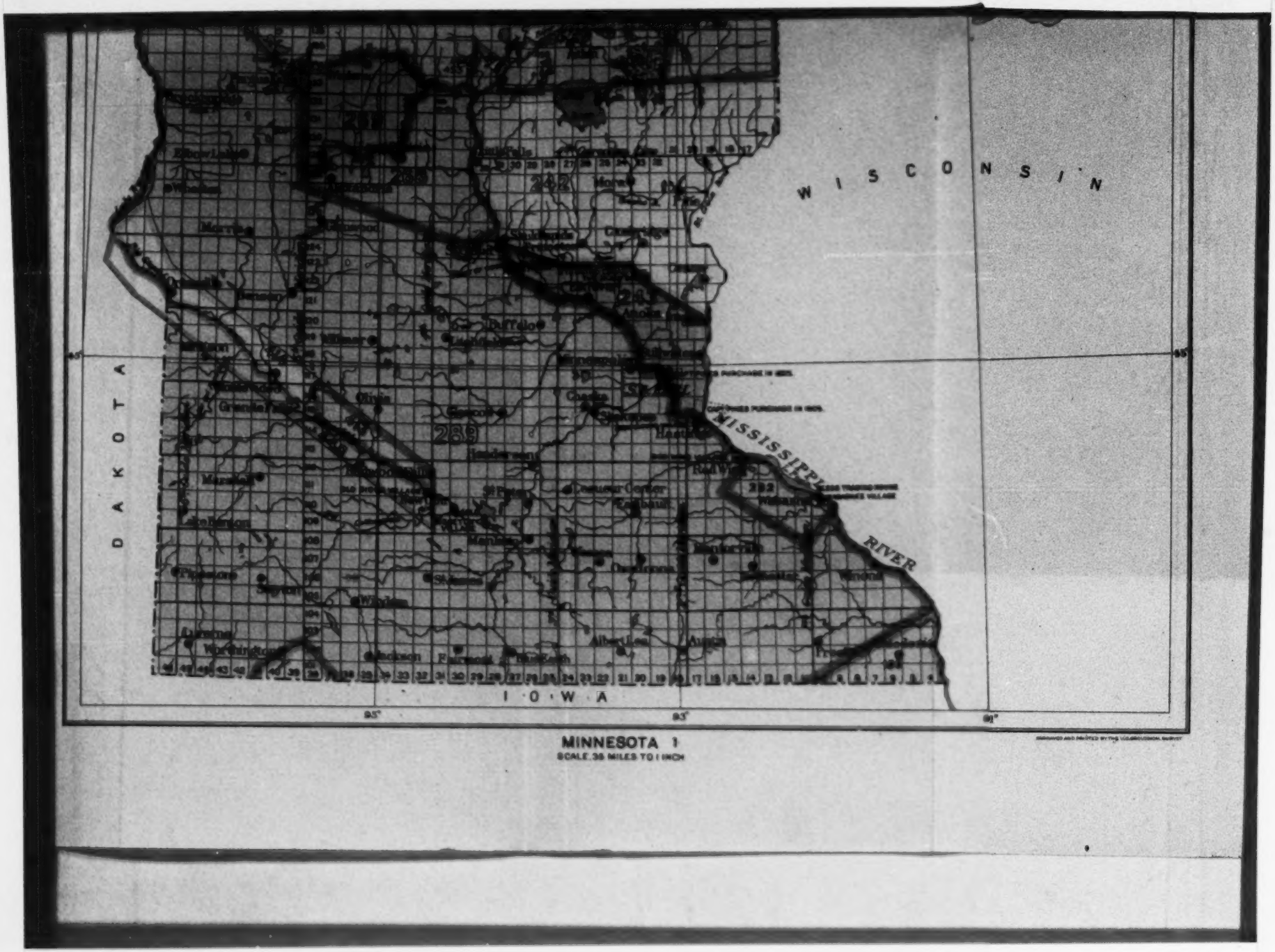
WISCONSIN
Red River of the North
Detroit
Elbow Lake
Wheaton
Morris
Alexandria
Glenwood
Mora
Pine
Cambridge
Carlton



MINNESOTA 1

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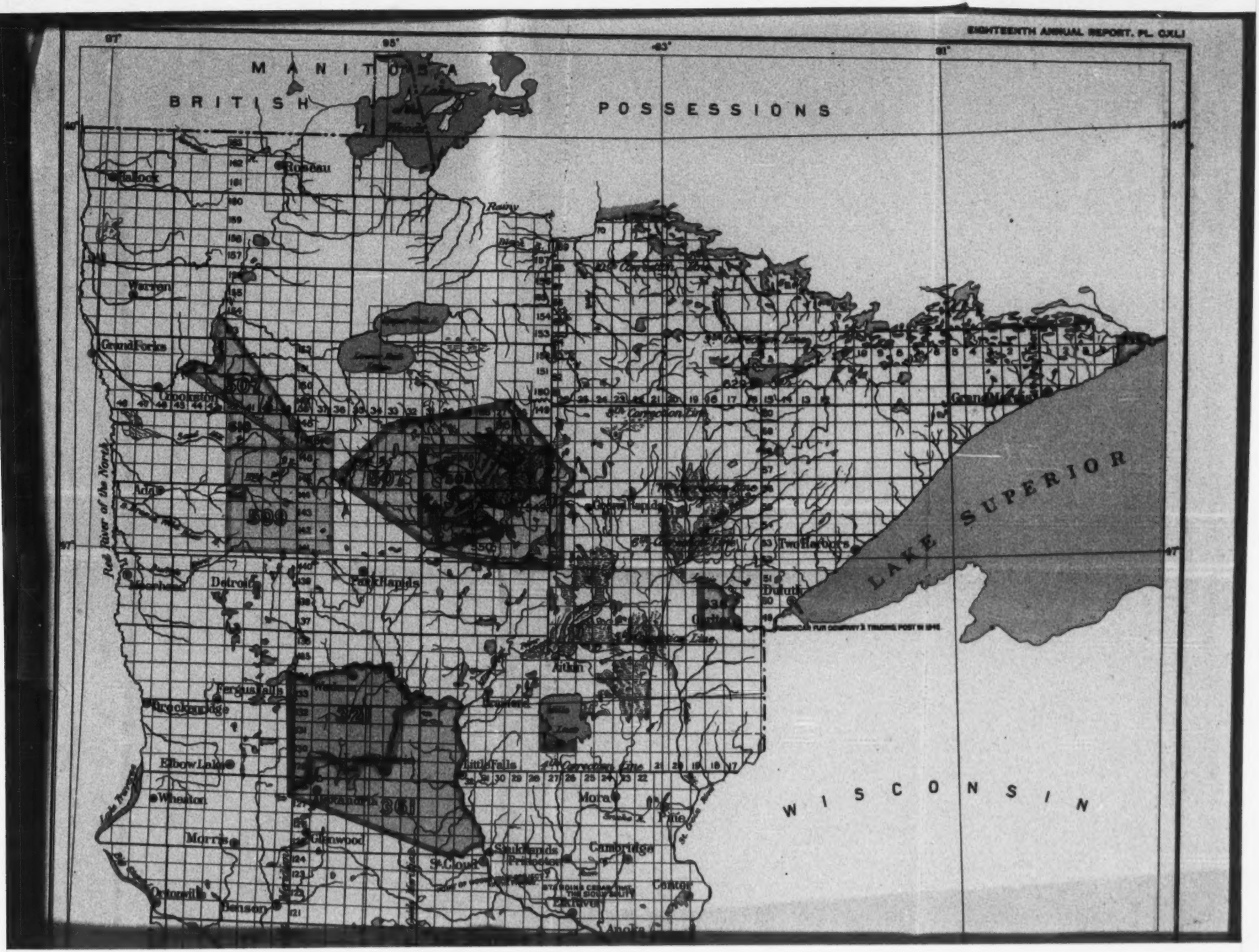
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Detroit
Park Rapids
Fergus Falls
Brookbridge
Elbow Lake
Wheaton
Morris
Ortonville
Benson
Glenwood
St. Cloud
Sauk Rapids
Little Falls
Mora
Pine
Cambridge
Anoka
Aitkin
Duluth
Two Harbors
Grand Marais
LAKE SUPERIOR
WISCONSIN
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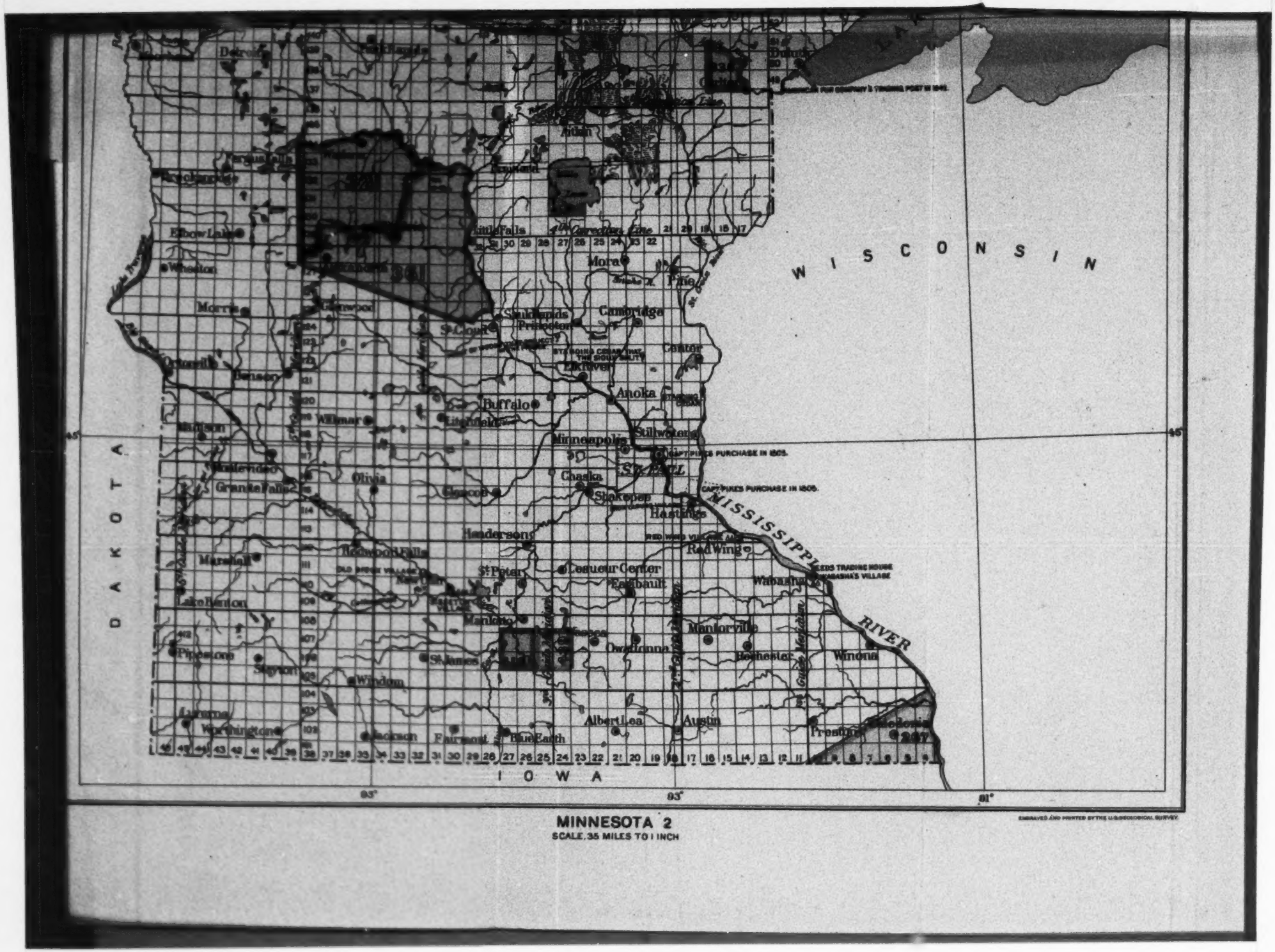

MINNESOTA 2

SCALE, 35 MILES TO 1 INCH

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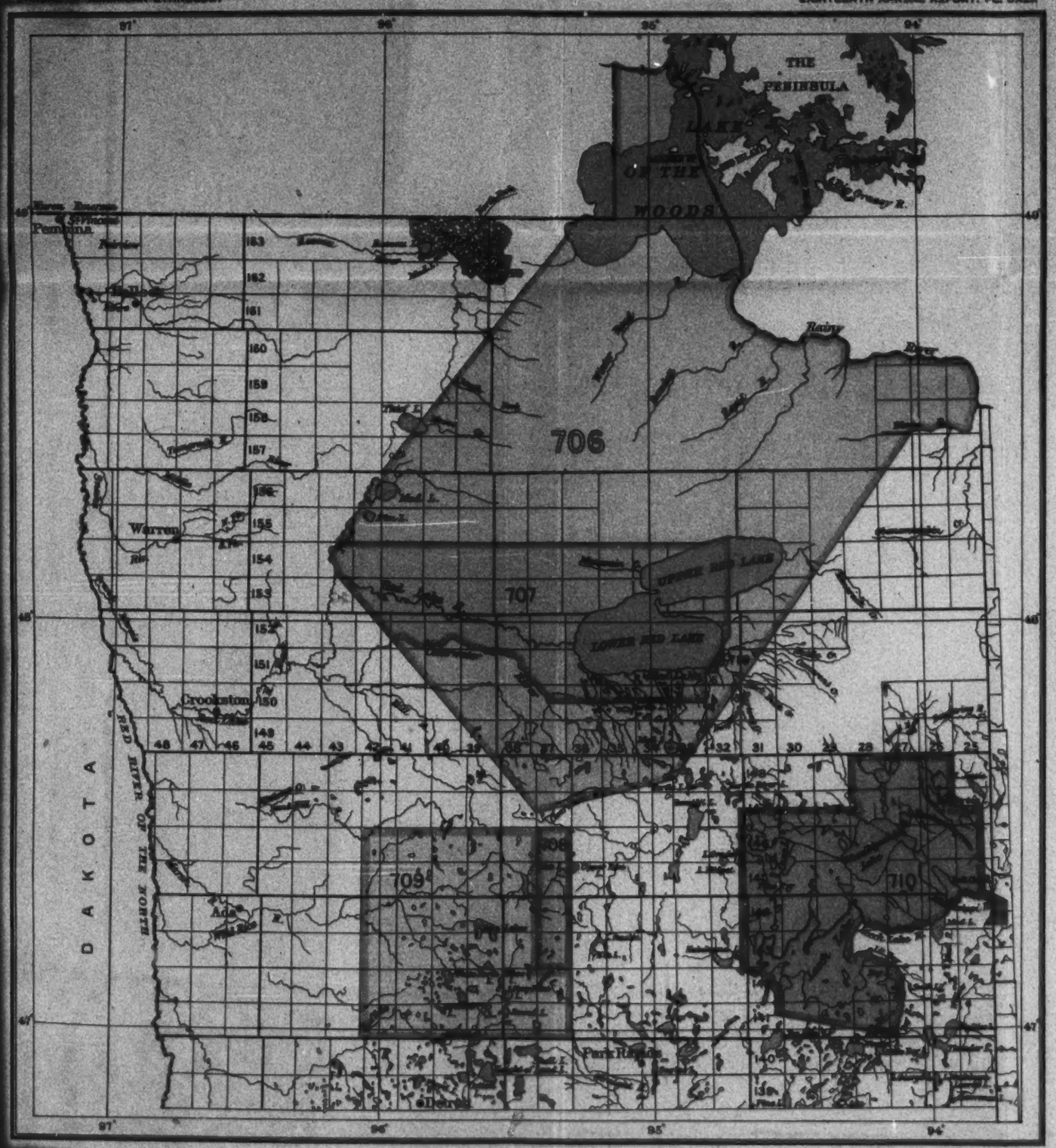


MINNESOTA (NORTHERN PORTION)

R.32 W. R.31 W. R. 30 W. R.29 W. R.28 W. R. 2

T.148 N.

T.147

T.146

Round Lake

Diokasoni Lake

Big Lake

Kitihi Lake

Ravens Pt

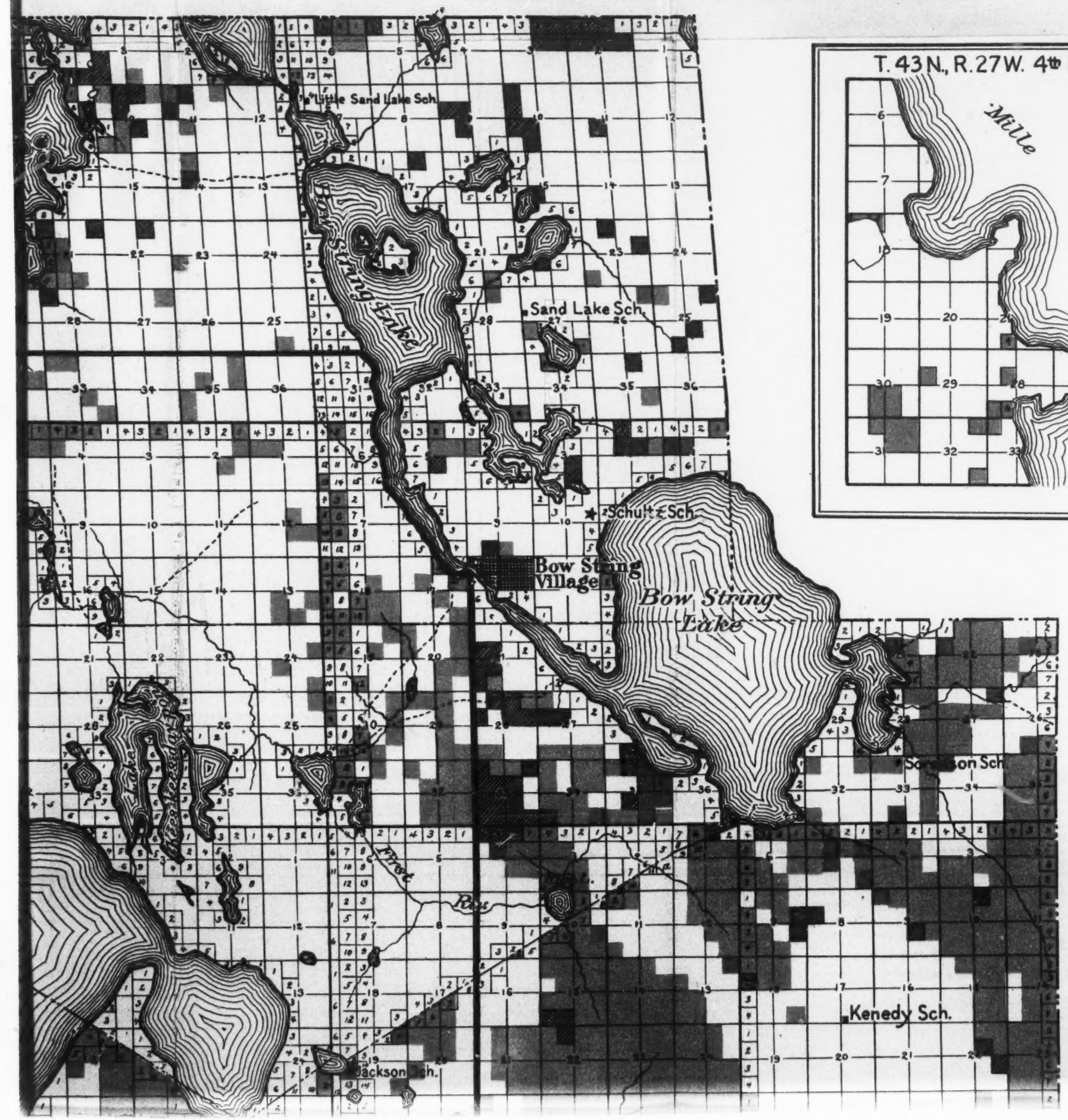
R. 26 W.

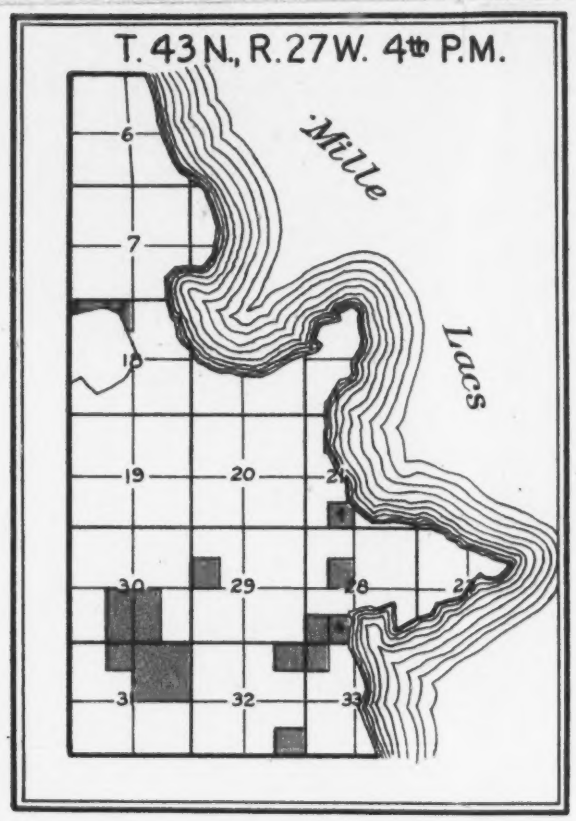
R. 25 W.

T. 148 N.

T. 147 N.

T. 146 N.





T.146

T.145

T.144

Lake Boarding

Allen's Bay

Mission Rd.

Cooper Id.

Cass Lake

D. Jones Sch.

High Sch.

Cass Lake

Sub Agency

Cuba

Timber Yard

Pike Bay

NORTHERN RY.

Gibson Sch.

GREAT NORTHERN RY.

Carlson Sch.

Raboin Sch.

Steamboat Lake

School

Wilkinson

Sandy Lake

Bay

Maple Pt.

Suoker Lake

Suoker Bay

Mississippi River

Little Lake

Lake Winnibigoshish

Schley

GREAT NORTHERN RY.

Portage Lake

Public Sch.

Bena

Two Points

A K E

LEECH LAKE DAM

Federal Dam

Leech Lake

Kenedy Sch.

T.146 N.

Jackson Sch.

Little Winnibigoshish Lake

Little Ball Club Lake

Hill Sch.

W. Otenogen Sch.

Russell Sch.

Ball Club Lake

Hulbert Sch.

T.145 N.

Ball Club Village

Ball Club River

Nushka

Dumas

ITASKA LUMBER CO'S RY.

Deer River High Sch.

T. 56 N.
R. 27 W.

Mississippi River

Stephens L.

T.144 N.

White Oak L.

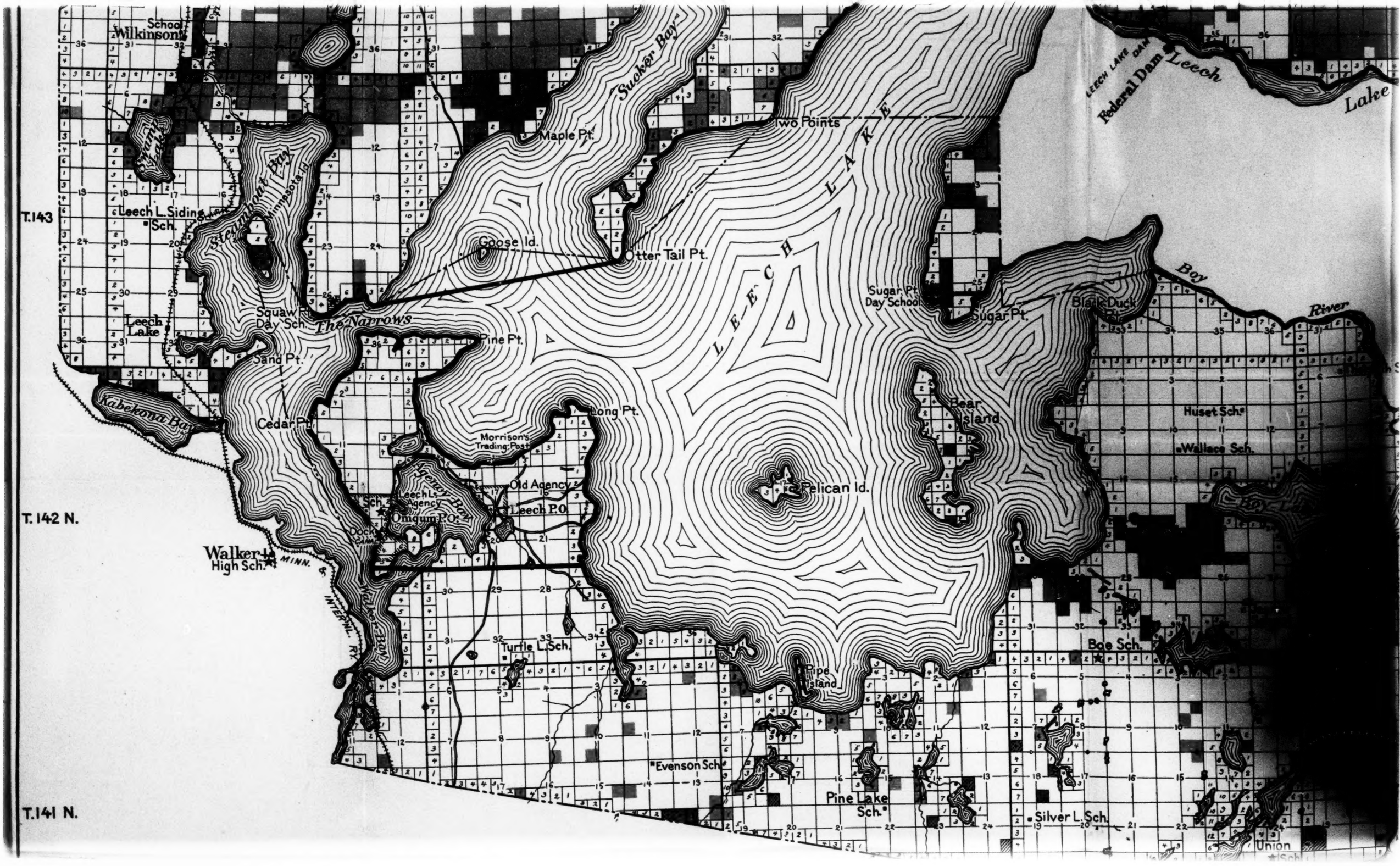
Mud Lake

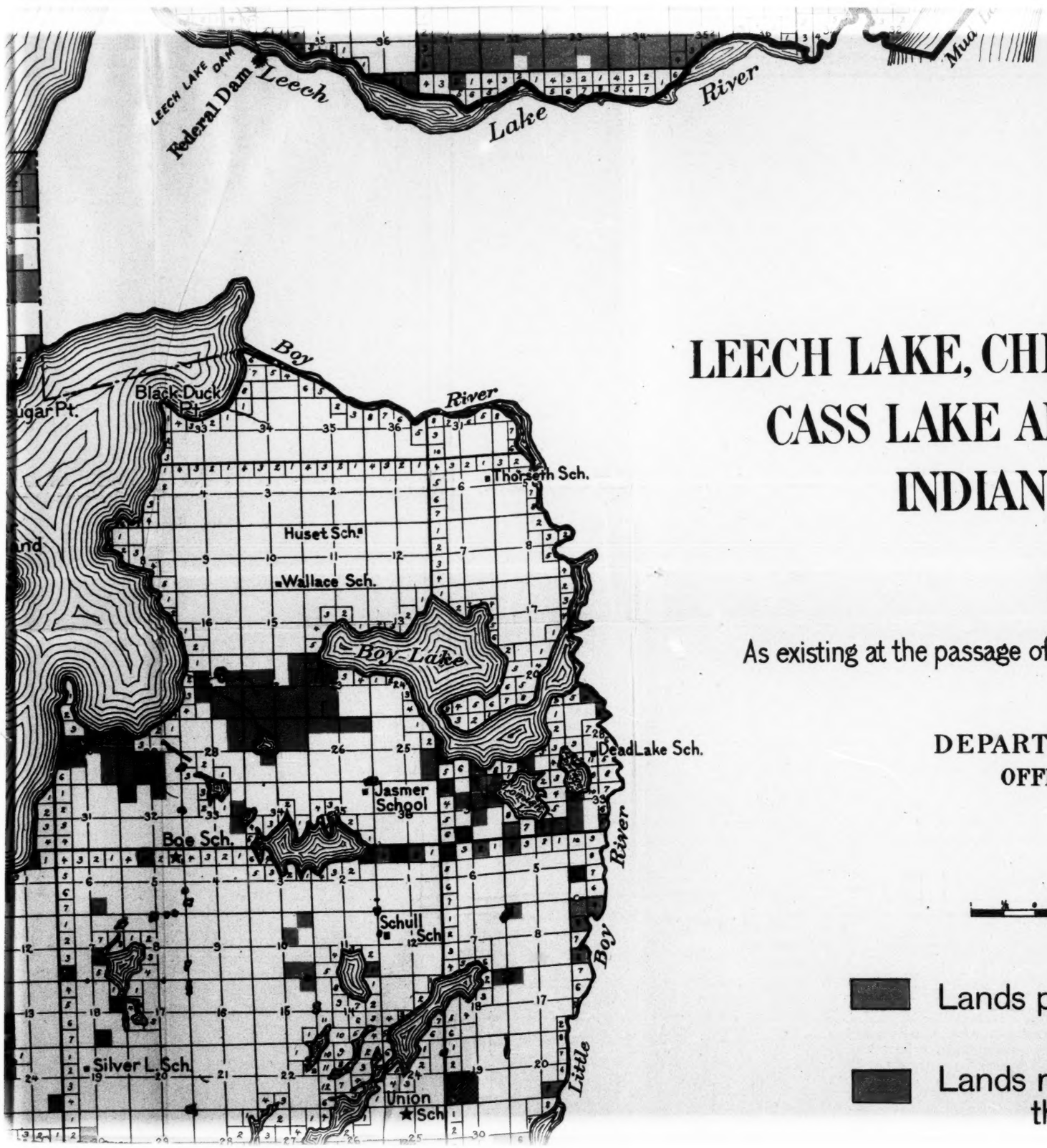
Lake River

Sec. 2
T.143 N.
Sec. 11

5th Prin. Meridian.

T. 55 N.
R. 27 W.


School
Wilkinson
Frank Lake
Steamboat Bay
Minnesota Id.
Leech L. Siding
Sch.
Squaw Pt.
Day Sch.
Leech Lake
The Narrows
Sand Pt.
Kabekona Bay
Cedar Pt.
Pine Pt.
Long Pt.
Morrison's Trading Post
Agency Bay
Old Agency
Leech L. Agency
Sch.
Leech P.O.
Omqum P.O.
Dock
Dam
Walker
High Sch.
MINN. & INTERNL. RY.
Walker Bay
Turtle L. Sch.
Evenson Sch.
Pine Lake Sch.
Silver L. Sch.
Union
Sucker Bay
Maple Pt.
Two Points
Goose Id.
Otter Tail Pt.
LEECH LAKE
Sugar Pt.
Day School
Sugar Pt.
Bear Island
Pelican Id.
Pipe Island
LEECH LAKE DAM
Federal Dam
Leech Lake
Boy River
Black Duck Pt.
Huset Sch.
Wallace Sch.
Boy Lake
Boe Sch.
T.143
T. 142 N.
T.141 N.



MAP OF

LEECH LAKE, CHIPPEWA, WINNIBIGOSHISH, CASS LAKE AND WHITE OAK POINT INDIAN RESERVATIONS

MINNESOTA

As existing at the passage of the Act of Jan. 14, 1889. (U.S. Stat. L. vol. 25, p. 642)

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS

1916

Scale of Miles

Lands patented to State of Minnesota as swamp lands.

Lands not yet patented but claimed by the State as swamp lands

T.143 N.

T.142 N.

T.141 N.

T.143

T. 142 N.

T.141 N.

Maple Pt.

Swan Lake

Steamboat Bay

Minnesota Id.

Leech L. Siding Sch.

Goose Id.

Otter Tail Pt.

L E E C H L A K E

Squaw Pt. Day Sch.

The Narrows

Leech Lake

Pine Pt.

Sand Pt.

Kabekona Bay

Cedar Pt.

Long Pt.

Morrison's Trading Post

Agency Bay

Old Agency

Leech L. Agency Sch.

Omqum P.O.

Leech P.O.

Dock

Walker

High Sch.

MINN. & INTERNL. RY.

Walker Bay

Turtle L. Sch.

Evenson Sch.

Pipe Island

Pine Lake Sch.

Pelican Id.

Sugar Pt. Day School

Sugar Pt.

Black Duck Pt.

Bear Island

Boy River

Huset Sch.

Wallace Sch.

Boy Lake

Jasmer School

Boe Sch.

Schull Sch.

Silver L. Sch.

Union Sch.

Longville

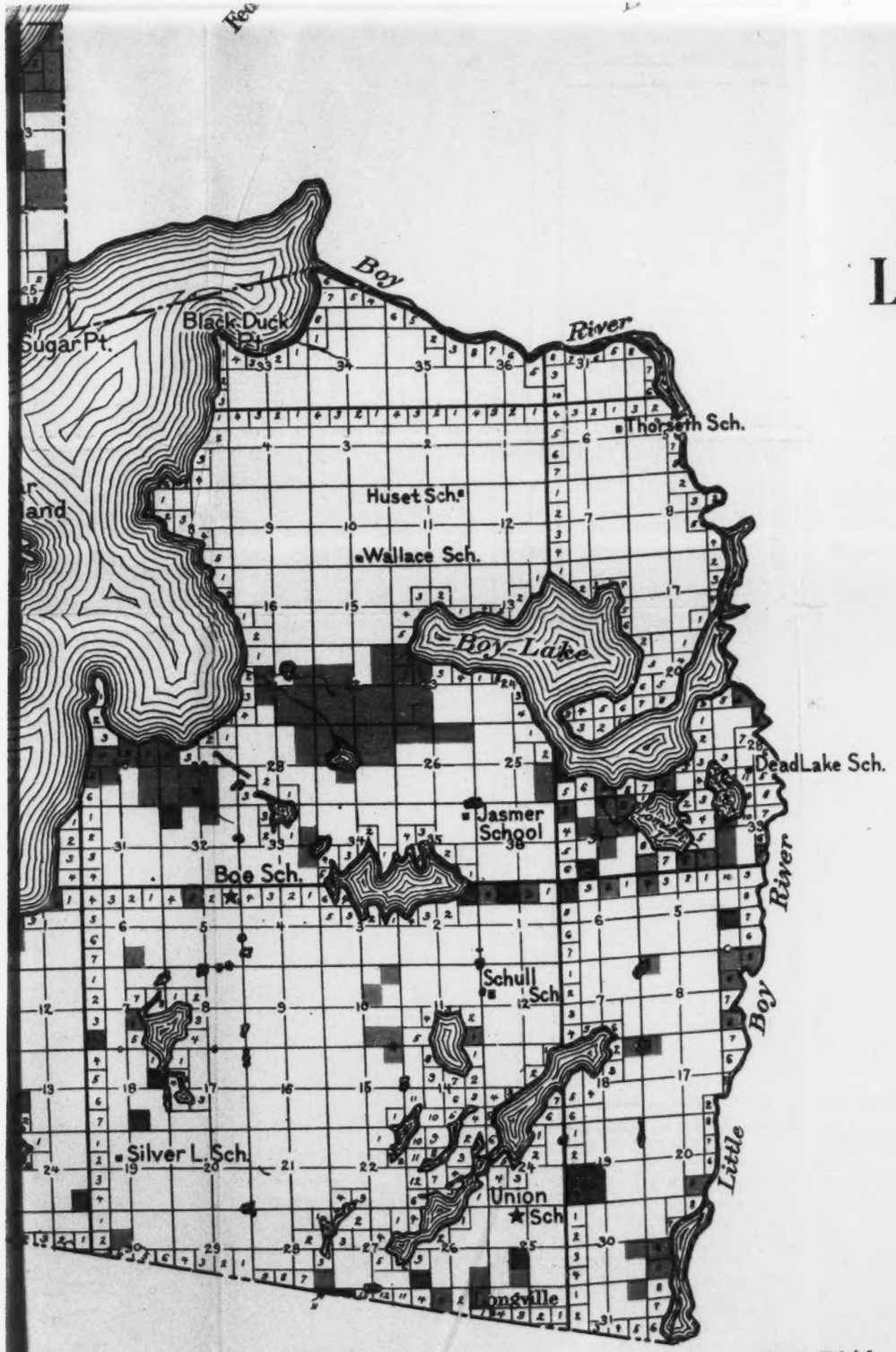
R. 32 W.

R. 31 W.

R. 30 W.

R. 29 W.

R. 28 W.



MAP OF

LEECH LAKE, CHIPPEWA, WINNIBIGOSHISH, CASS LAKE AND WHITE OAK POINT INDIAN RESERVATIONS

MINNESOTA

As existing at the passage of the Act of Jan. 14, 1889. (U.S. Stat. L. vol. 25, p. 642)

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS

1916

Scale of Miles

Lands patented to State of Minnesota as swamp lands.

Lands not yet patented but claimed by the State as swamp lands

Compiled and drawn June 1912 by A. Henderson. Revised 1916

MAPS

TOO

LARGE

FOR

FILMING

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J43904

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In the Supreme Court of the United States

OCTOBER TERM, 1925

No. 17, Original

THE UNITED STATES OF AMERICA, PLAINTIFF

v.

THE STATE OF MINNESOTA

BRIEF FOR THE UNITED STATES

I

NATURE AND PURPOSES OF THE SUIT

The subject matter of this suit comprises about 153,524 acres of land which have been patented by the United States to the State of Minnesota as swamp lands. No issue is raised as to their character as swamp lands, but the United States claims that these particular lands were not subject to the swamp-land grant made to Minnesota; that at the time the patents issued these lands were held in trust by the United States to be sold for the benefit of the Chippewa Indians; and that the patents were issued to the State by the Interior

Department without authority of law and in violation of the trust.

The purpose of the suit is to have these patents declared invalid, and to have the possession of the lands restored, so far as may be, to the United States in order that they may be disposed of in accordance with the trust. But a large proportion of the tracts involved have been sold by the State to private parties, mostly, no doubt, to citizens of Minnesota, who probably could not be joined as parties defendant here without ousting the original jurisdiction of the court. *California* v. *Southern Pacific Co.*, 157 U. S. 229. In any event, the purpose of the trust was to turn the lands into cash for the Indians, and as that would be fully accomplished by recovering from the State the value of the lands already disposed of by her, that course has been pursued so as to avoid unnecessary complications and harassment of the private claimants. A decree against the State for the value of such lands will doubtless operate to confirm the claims of the private holders thereof. So that our main prayers are for the restoration of the lands still unsold by the State and a money decree against her for the value of the lands she has sold. We pray also for the value of timber cut and sold by the State from lands still unsold.

One fact of importance not known to the Government when the bill was prepared, but disclosed by the answer, is that the State in selling the

swamp lands reserved all minerals and mineral rights therein. (Exhibit B to Answer, R. 72.) If the Government shall prevail on its main contentions, these reserved minerals and mineral rights should be decreed to the United States, together with any sums realized from minerals mined and disposed of by the State pursuant to such reservations.

Under the terms of the trust the swamp lands belonged to a class which were to be disposed of by the United States for a fixed price of $1.25 per acre. But as to both lands and timber sold, the underlying theory of the bill is that the State, having gained possession without any right whatever and without any consideration, must restore to the trust fund, at the election of the Government, either the values of the lands or all that she has realized from them, which was in fact much more than $1.25 per acre.

If the court on this submission shall decide the questions of right in favor of the United States, either wholly or in part, then further proceedings are contemplated, for the parties have deemed it unjustifiable to go to the great expense necessary to ascertain quantities, values, and other details in advance of a decision on the questions of right.

II

OUTLINE OF FACTS AND CONTENTIONS

In 1855 certain bands of the Chippewa Indians ceded to the United States some 15,000,000 acres

of land in Minnesota Territory, retaining nine small, scattered reservations. In 1858 Minnesota was admitted to statehood, and in 1860 the Swamp Land Grant of 1850 was extended to her with modifications and exceptions. The small reservations proved inadequate to the Indian needs, and by treaties of 1863 and 1867 six of them were ceded and two large reservations were created out of territory ceded in 1855. For brevity we herein call the first of these the Enlarged Leech Lake Reservation. The second was the White Earth Reservation. The lands thus again reserved had remained wholly unsurveyed and unsettled, and the Indians had always been permitted to hunt and roam over them as before the cession of 1855.

These reservations remained unchanged for twenty-two years, when, by the Nelson Act of 1889 (25 Stat. 642), specific propositions were made to the Chippewas for the general settlement of their affairs, which propositions were to become binding when accepted in a manner prescribed. After prolonged negotiations they were so accepted.

Under this Act the Indians ceded the entire Leech Lake Reservation and a portion of the White Earth, together with other reservations in whole or in part. The Act prescribed that the ceded lands should be surveyed and then divided into two classes (only)—"pine lands" and "agricultural lands." All not found to be "pine lands" were to be classed as "agricultural lands."

The "pine lands" were to be sold at auction, and the "agricultural lands" were to be disposed of according to the procedure of the homestead laws for $1.25 per acre, all the proceeds of both classes to be placed to the credit of the Indian tribe. The surveyors, however, pursuing routine methods, segregated and described the swamp lands as such, instead of simply classifying them as pine or agricultural lands, as the Act of Cession contemplated.

During all these transactions the State remained wholly silent and, until after the Nelson Act was accepted, it had never been suggested by white man or Indian that the State could claim any of the ceded lands under the swamp-land grant. Some time after the surveys, however, the State presented to the Secretary of the Interior claims for the swamp lands not only in the ceded areas but also in the unceded part of the White Earth Reservation, and both claims were finally allowed.

These claims were made and allowed substantially on these grounds:

That the swamp-land grant was a grant *in praesenti* passing an immediate title or vested right to the State as of March 12, 1860; that at that time the lands ceded in 1855 were "public lands," to which the grant immediately attached, thus depriving the United States of power to again reserve them for Indian purposes by treaty.

Propositions of fact

1. The Treaty of 1855 (10 Stat. 1165) was negotiated under circumstances of unseemly haste and pressure with chiefs and warriors not adequately representing the tribe, who were selected by Government agents and rushed to Washington without opportunity to consult their tribal associates, and in ignorance of the purpose of their journey. The small reservations retained were wholly inadequate to the Indian needs, and the treaty was so disastrous as to impose upon the Government a moral obligation to restore some of the lands ceded by it.

2. This moral obligation was impliedly recognized and acted upon by the Treaty of 1863, which restored some millions of the ceded lands and established the Enlarged Leech Lake Reservation.

3. The provisions thus made also proved inadequate and disastrous, the treaty was never wholly performed, and the Government, again recognizing its moral obligations, restored a large additional area by creating the White Earth Reservation.

Propositions of law

1. The stipulations establishing the new reservations contained no exceptions or qualification; they were absolute in their terms, and constituted a solemn treaty engagement that all the lands within their boundaries should thenceforth be Indian lands. The conveyance of the swamp lands to the State was, therefore, a breach of solemn treaty obligations; and that is true whether the stipulation

was beyond the treaty-making power or, being within that power, was violated through a mistake of the officers and agents of the Government.

2. By the later decisions of this court the swamp-land grant of 1850 did not pass an immediate title to lands unsurveyed, not open to settlement, and still in the actual occupancy of Indians.

3. In any event, the Act extending the grant to Minnesota and Oregon contained modifying provisions clearly postponing the vesting of any right or title until after the surveys and the performance of certain conditions.

4. The Act extending the grant contained an express proviso excepting from it any lands thereafter reserved by the United States "in pursuance of any law heretofore enacted;" and a reservation by treaty made pursuant to the Constitution, which is the supreme "law" of the land, falls within the exception.

5. The State, by her silence when the lands were again reserved by treaty, and her continued silence until after they were ceded under the Nelson Act in trust to be sold for the benefit of the Indians, was forever estopped to assert any claim under the swamp-land grant.

6. Even if the State acquired a right or title to the swamp lands by the Act of 1860, that right or title was divested by the treaties of 1863 and 1867. The treaty-making power is vested exclusively in the general Government and has no express limitations. It extends to all things usually

dealt with by treaties among nations, and in exercising it the United States may bind the States in respect to their proprietary rights.

7. The Act of 1860 required the State to select the swamp lands within a time computable from the completion of the surveys, but she did not select them until long thereafter; and, as against the Indians, the Secretary had no authority to waive this requirement.

8. The State forfeited her rights, if any she ever had, by adopting (in 1881) a constitutional amendment directing that the entire proceeds of her swamp lands be placed in the school and other educational funds, there to be preserved inviolate and undiminished, thus wholly diverting the proceeds from the purpose to which they were dedicated by Congress, namely, the drainage of the swamp lands themselves.

Special defenses

The State sets up the defense of the Federal statute of limitations of March 3, 1891, relating to suits to cancel land patents; and also pleads laches in bringing the suit. As to these, we say that:

By express decisions of this court, the statute pleaded does not apply to suits to cancel patents purporting to convey Indian lands;

If laches is ever imputable to the United States, it is inequitable to set up the defense where Indians legally incapable of asserting their own rights are the real parties in interest.

The State further says that the Indians are the only real parties in interest, that many of them are now citizens of the State, and that they are necessary parties plaintiff; further, that the judicial power of the United States does not extend to a suit by individuals against a State.

To this we answer that the Government is here seeking to enforce a trust devolved upon it by treaties and statutes and of a nature which it alone can execute; and it is immaterial that the ultimate beneficiaries of the trust have become citizens of the State.

Position of the State on the merits

The position of the State seems to be that this case involves simply and mainly a question of law arising on the face of the pleadings, namely, whether the swamp land grant gave her an immediate title or vested right. But acts of Congress may be construed broadly or narrowly, as equity and fundamental right and justice require; and the Government contends that the swamp land act must be considered in connection with the treaties, and in the light of all the circumstances prevailing at the time they were made. On the insistence of the Government therefore a stipulation of facts has been made by which the Government undertakes to show, wholly from documentary sources, the facts which we believe should be before the court when it considers the questions of law. (R. 75.) By the stipulation the State ob-

jects to every part of this documentary evidence on the grounds of irrelevance, immateriality, and incompetency; and to some parts she further objects on the ground of hearsay. (R. 414.)

The Government does not understand that by stipulating into the record the most material parts of documents, etc., it is thereby estopped from referring to other historical documents and papers of which the court can take judicial notice.

III

STATEMENT

The treaty of 1855

When the United States first entered into treaty relations with the Chippewa (or Ojibway) Indians they occupied practically all the northern peninsula of Michigan, the northern half of Wisconsin, and the northern half of Minnesota. By 1854 they had ceded all their Michigan and Wisconsin lands except certain small reservations. In September, 1854, at a great convocation of the tribe at La Pointe, Wisconsin, they further ceded a large territory in Minnesota lying west and north of Lake Superior, the western line of the cession being, generally, the East Swan and Vermilion Rivers. (10 Stat. 1109.) By this treaty the interests of two branches of the tribe, designated generally as the Chippewas of Lake Superior and the Chippewas of the Mississippi, were segregated, the latter consenting that all the con-

sideration money for that cession should go to the former, and in consideration thereof the Chippewas of Lake Superior relinquished to the Chippewas of the Mississippi all their interest in the lands theretofore owned by them in common lying west of the western line of the cession. This left the Chippewas of the Mississippi as the owners of the northern and northwestern part of what is now Minnesota, together with a broad strip extending westward into what is now North Dakota.

It is evident that in this treaty the designation "Chippewas of the Mississippi" comprehended all the Chippewas living west of the line of cession, including the Red Lake Indians. But in the treaty of 1855 "Chippewas of the Mississippi" is used in a narrower sense as designating certain bands whose villages were at various places in the southern part of the Chippewa territory.

Up to and including the treaty of 1854 the Government had dealt with the Chippewa tribe as a whole. Thereafter for a number of years it pursued the somewhat Machiavellian policy of dividing them and treating with separate bands, or rather groups of bands, wholly ignoring others which had never consented to a segregation of interests. The wrong and injustice wrought by this policy was, however, finally recognized by the Nelson Act of 1889, which provided that all the Minnesota Chippewas had an equal interest in the

proceeds of the lands thereby ceded for purposes of sale.

In 1855 the Indians with whom we are here concerned were still living in their primitive state. Traders, mainly French, had been among them for several generations, but had not modified their habits or modes of life. On their southern border they had come in contact with white lumbermen, hunters, and settlers, who demoralized them with whisky but did not contribute to their civilization. They procured food "principally by fishing, also by gathering wild rice, hunting deer, and, in some bands, partially by agriculture." (R. 415.) Their villages were of a somewhat permanent character, and were uniformly situated upon the borders of lakes, which were their principal sources of food.

At the time of the treaty of 1855, the principal villages of the Chippewas of Minnesota (excluding the Chippewas of Lake Superior, whose interests had been segregated) were situated as follows (see maps at back of Record):

1. *Chippewas of the Mississippi* (used in the restricted sense).—One village or group of villages on south side of Mille Lac, which is southeast of the present town of Brainerd. Five villages or groups along the Mississippi from Brainerd up stream as follows: at Gull Lake, Rabbit Lake, Sandy Lake, Rice Lake, and Pokagomin Lake.

2. *The Pillager and Winnibigoshish Bands.*—Three groups of villages further up the Mississippi at Leech Lake, Cass

Lake, and Lake Winnibigoshish; and, far to the southwest, one on Otter Tail Lake, which lies at the head of Leaf River northeast of the present town of Fergus Falls.

3. *The Bois Forte Band,* located in the region about Nett Lake, near the Canadian border and west of the Vermillion River.

4. *The Red Lake and Pembina Bands,* located at Red Lake, with some of the *Pembinas* farther west.

This was the situation when, on December 19, 1854, Congress passed an Act (10 Stat. 598) "authorizing the President to enter into negotiations with the Chippewa Indians for the extinguishment of their title "to the lands owned or claimed by them, in the Territory of Minnesota, and State of Wisconsin"; the treaty to provide that *each head of a family* should have in fee simple a reservation of eighty acres to be selected from the ceded lands, etc. (R. 75.) This was at the short session of Congress, and it seems to have been determined in advance that a treaty should be concluded in time to be ratified before the session terminated on March 4th next ensuing.

About two weeks later the Commissioner of Indian Affairs wrote the Governor of Minnesota Territory, who was also Superintendent of Indian Affairs in that region, directing him to "dispatch a messenger with all haste to Agent David B. Herriman, and direct him * * * that he will immediately set out for this city, bringing with him

'Hole-in-the-Day' and six other principal chiefs of the Chippewa Indians of the Mississippi. If possible, I desire him to bring also 'Flat Mouth' and two other chiefs of the Pillagers, and the principal and two other chiefs of the bands near Lake Winnipeg." (R. 76.) Apparently by "Lake Winnipeg" was meant the lake now called Winnibigoshish, as the Indians there located were among those brought to Washington. The letter further directed that "You will specially charge Agent Herriman that if he will not be able to reach Washington by the day limited, viz, February 10th, he will not set out from the Agency, or in case he may have arrived at St. Paul on his way, and it should then appear to be impossible to reach here in time he will in that case not continue his journey, but return."

A runner was accordingly dispatched to Agent Herriman at Crow Wing, who shortly afterwards arrived at St. Paul with Hole-in-the-Day, Flat Mouth, and certain other Indians.

No tribal councils were held to designate representatives, and, in fact, it would seem that the Agent himself selected most of the Indians who were to go. He sent word to the Mille Lac Band, but its chiefs did not arrive at the Agency until the day after he left for St. Paul. They followed on to St. Paul, saw the Governor, charged the Agent with bad faith, that he was taking to represent their band a St. Croix Indian, that he was taking only three chiefs with him and that all the rest were "soldiers," and demanded

to be taken to Washington. The Governor directed the Agent to take the three chiefs with him, but he went without them, and the Governor sent them on later with a letter severely criticizing his conduct. (R. 76, 77.)

Of the two principal chiefs at the making of the treaty, Flat Mouth, of the Pillager and Winnibigoshish (or Winnipeg) Band, was very old, of failing memory, somewhat childish, and very proud of the fact that he had been summoned to the Capital, for he asked for credentials to show the members of his tribe that he had been to Washington. (R. 113.) Hole-in-the-Day, of the Mississippi Band, was young and shrewd; but the three Mille Lac chiefs charged that he had been bribed by traders to betray the tribe before he left for Washington. Two years later he stated to Major Day, then temporarily in charge of the local agency, that at Washington he had been promised $6,000, part of which he would find at St. Paul on his return from Washington, that he did not find it there, that his life had been threatened on his return by the members of his own band because of the treaty; that he had intended to use part of the money to reconcile the dissatisfied; that he had been anxious to have a provision for its payment incorporated in the treaty, but was overruled, and was solemnly assured that it was just as safe as if the provision were in the treaty. Major Day stated that he had

independent reasons for believing that the chief's life was in danger. (See letter of Major Day to the Commissioner reciting these facts. (R. 121.) This letter bears the endorsement "file" and the records of the Interior Department fail to show that it was ever answered.

Neither the Bois Forte nor Red Lake and Pembina Bands was represented. The project evidently was to have the two groups summoned cede all the lands they were willing to claim as their own part of the common property. The Otter Tail Band of Pillagers was not represented, apparently because there was insufficient time to reach them.

At Washington ten interviews were had between the Indians and the Commissioner. Their substance was taken down at the time in long hand, and the original notes are preserved in the Indian Bureau. The record contains them in full (pp. 80–115).

The Commissioner, George W. Manypenny, was suave and tactful, but the whole basis of his argument was the assumption that these primitive savages could be converted into willing and industrious cultivators of the soil in the course of a decade, if relieved of their surplus lands and thrown on their own resources. The Indians had learned by experience that they must sell when the Government wanted their lands, lest from the pressure of white settlement worse evils should befall them. Almost from the first they expressed a

willingness to sell. Their true state of mind, however, was thus expressed by Hole-in-the-Day:

> We are not near so ignorant as white men think us to be. When we view the country once owned by the Indians we feel like a wild beast driven into a hollow tree where he can't get away. (R. 104.)

And again:

> Emigrants are coming among us. They won't be satisfied with the land now open for entry, and we can not resist their encroachments if we would. We should therefore prepare for a state of things which we can not avert and settle down like the whites. (R. 109.)

All they could do was to make the best terms possible. Even in this they were pitifully helpless. Through it all was the constant and repeated statement that Congress was about to adjourn, and if any treaty was to be had it must be ratified before adjournment. It was an implied threat that unless a treaty was agreed to then worse things might befall; and the danger of that was very real. Finally they asked leave to consult a friend in whom they had confidence. This was Henry M. Rice, then delegate in Congress from Minnesota Territory and later a Senator from the State. By his intervention the amounts first offered by the Commissioner were nearly doubled.

The final result was that they ceded some fourteen to sixteen million acres and retained nine

small widely scattered reservations, comprising about 440,000 acres of land and water. Each reservation was situated about a lake and at the sites of their permanent villages, whose locations have already been given, but no reservation was made for the Otter Tail Band of Pillagers which was not represented at the treaty. Nearly half the acreage reserved was water and much of it swamp. In 1889, when the first actual census was taken, there were some 5,210 Indians in the two groups, and they had probably decreased in the meantime. This would probably give them less than fifty acres apiece of dry land.

The money consideration was about $1,000,000, payable mainly in annuities extending over periods of twenty and thirty years. The present worth in cash of that sum would of course be a mere fraction of the total.

Opposite page 458 of the record is a map reproduced from the Eighteenth Annual Report of the Bureau of Ethnology showing the various cessions of Indian lands in Minnesota. The large central area in blue, designated by the large figures 357, shows the lands that were ceded by the Treaty of 1855. The four small tracts in red along the Mississippi designate the reservations for four Mississippi bands, and the three tracts in green on the upper lakes show the reservations for the Pillagers and Winnibigoshish. The reservation for the Mille Lac Band of Mississippi Indians is shown on the next map in red on

the south side of Mille Lac, which name means "Thousand Lakes." The Mille Lac lands had been ceded by the whole Chippewa Tribe in 1837 as part of the tract marked in yellow on the map first mentioned. (Treaty of July 29, 1837, 7 Stat. 536, Art. I.) The Indians probably did not then understand that the north line of that cession would include the Mille Lac villages, for the band remained in undisturbed possession from 1837 to 1855, and for long afterwards. Apparently, however, the lands had been surveyed to the extent of running the township lines, for the treaty of 1855 describes the reservation then established by fractional townships. (Art. I.) The subdivisional surveys were not made until after the provisional cession of this reservation in 1863, namely, in 1870–71, and there was no white settlement upon them until those years. *United States* v. *Mille Lac Chippewas,* 229 U. S. 498, 502.

The Lakes—Swamps—Wild Rice

It will be observed that each of these nine reservations was situated on a lake. This was no accident. For centuries the economic and tribal life of the Chippewa Tribe centered upon the small lakes and connecting watercourses and the swamps of northern Michigan, Wisconsin, and Minnesota. We have already quoted from William W. Warren, historian of the tribe, who wrote in 1852 to the effect that they procured food "principally by fishing, also by gathering wild

rice, hunting deer, and in some bands, partially by agriculture." He named these things in the order of their importance, but he did not name all. These lakes not only swarmed with fish but with ducks, geese, and brant. The swamps were the home of the beaver, otter, and other fur-bearing animals. During the two hundred years preceding 1855 the Chippewas had conquered all this territory from the Sioux, and most often it was the lakes—especially the wild rice lakes—and their surrounding swamps that they fought for. (R. 422, 423; Warren's History, Minn. Historical Collections, v. 5, pp. 156, 306.)

Aside from the fish in the lakes and the fur-bearing animals in the swamps, the fundamental condition which rendered the small lakes and the sluggish rivers the most valuable of all the Indian possessions was the prevalence of *wild rice*. In 1898 there was published, as part of House Document No. 539, 56th Cong., 2d Sess., being the Nineteenth Annual Report of the Bureau of Ethnology, an article by Albert Ernest Jenks on "The Wild Rice Gatherers of the Northwest." We have inserted in the record liberal extracts therefrom. (R. 415–439.) Wild rice is an aquatic plant growing up through the water and carrying its blossoms and seeds on stalks reaching some feet above the surface. It grows best in water from one to four or five feet deep, and requires a muddy bottom with still water or only a sluggish current. In favorable localities the stand is so dense that

a canoe can be pushed through it with difficulty, and it yields from ten to forty bushels per acre. Its seed is dark, somewhat longer than that of white rice, and of a peculiar gamy flavor. At this day it is highly prized as a delicacy by some whites, and is now on sale in small quantities at the best groceries.

Wild rice was the chief vegetable food of the Chippewa Indians for centuries, and is still gathered and used by the Chippewas of Minnesota in preference to other grains. (R. 439.) In 1918 two hundred and thirty Indian families were engaged in harvesting rice from Rice Lake in the White Earth Reservation. (R. 441.) The grain is harvested by the Indians by bending the stalks over their canoes and striking the heads with sticks. It is dried, and was formerly preserved for winter use by burying it in the ground. The Chippewas recognized individual property in wild rice, and it was common to parcel out the rice lakes among the family groups. Often, before the grain was mature, the heads were gathered in bunches, bent over, and tied, so as to preserve the seed from the wild fowl. Probably the greatest density of Indian population in the United States was along Green Bay and Fox River in Wisconsin, where some 20,000 Indians lived in a space 135 miles long and 30 miles wide, and this was attributed by early travelers to the great quantities of wild rice, which served the Indians as food and

attracted vast flocks of wild fowl for their use. (R. 437.)

Writing in 1843, the Indian Agent at La Pointe, Wisconsin, said that 1,000 families of Chippewas collected an average of 25 bushels per family a year. He protested against the payment of annuities to the western Indians at La Pointe at the time of the wild-rice harvest, saying (R. 433):

> If taken away from their rice harvests they lose more than the whole payment amounts to, say about $7 per head.

In 1858 the Agent at Fond du Lac reported that Indians there were "disappointed and sore" because, in running the boundaries of the reservation constituted for them by the treaty of 1854, their rice lakes, which were to have been reserved, were left out, saying (R. 434):

> These lakes * * * abound in fish and wild rice, which constitute the principal subsistence of these Indians * * *. They wished me to say to the Great Father that they are willing to give up *a large portion of the land* in the present reserve if he will attach to the remainder the coveted lakes.

In 1860 the same agent reported that the reservation should have included Perch Lake, which was the only place where they could support themselves the year round, saying that there they obtained an abundance of "field rice and fish," sugar, and game. (R. 434.)

When the wild-rice crop failed, as it did in some places every three to five years (apparently because of high water), the Indians were often reduced to starvation the following winter. See Reports of Indian Agents for the Mississippi and Pillager Bands. (R. 118, 122.)

In 1864 the agent reported that the gardens which the Government farmers were aiding them to cultivate largely failed because of dry weather, but added (R. 147):

> The deficiency is more than made good by the very large rice crop which they have just gathered, and which they will garner for use in midwinter, when other food can not be obtained. Fish, *which have always been the chief reliance of this tribe for subsistence,* have been more than ordinarily abundant.

Treaty of 1863–64

When the Indians learned the provisions of the treaty of 1855 they were so incensed that they threatened the lives of their chiefs. The Pillagers broke into the store of a trader named Bonga, and killed the horse of another trader, giving as a reason that they favored the treaty and had assisted the chiefs on their way to Washington. (Agent's report of October, 1855, R. 119.)

As shown by the letter of Major Day (R. 121), the life of Hole-in-the-Day was in serious jeopardy, and he spent sleepless nights from mortification and chagrin because he had been treated

"like a child" and overreached because he had believed "the white man had but one tongue." However, he made a brave beginning at cultivation (R. 116), but, failing to receive the $6,000 or any part of it, soon ceased his efforts and went bad. In 1862, during the Civil War, occurred the great outbreak of the Sioux, in which nearly a thousand Minnesota settlers were killed. At that time Hole-in-the-Day assembled a force of 300 warriors at Gull Lake and moved to attack the Agency at Crow Wing. The Commissioner of Indian Affairs happened to be at the Agency at the time. He sent for the Mille Lac chiefs, who immediately responded, promised to keep the peace, and joined in the preparations for defense. An outbreak was thus averted until troops arrived. Members of the Gull Lake band, and apparently some of the Pillagers, had, however, committed some depredations against the whites (R. 129); House Executive Document No. 1, 37th Cong., 3d Sess., pp. 170–176 (R. 130, 142). The action of Hole-in-the-Day created intense and indiscriminate hostility among the whites against all the Chippewas. (R. 130, 132, 135–136.) He was later killed by members of his own band.

As regards the good of the Indians the treaty of 1855 was a complete failure. No eighty-acre allotments were ever made under it. Immigrants, lumbermen, and whisky dealers swarmed around the small reservations of the Mississippi bands. The Indians could not be "civilized" out of hand,

and their first efforts at cultivating gardens soon almost ceased. Attempted prosecutions for selling them liquor failed, and the trade was carried on practically without restriction. (R. 127.) There was but one agent for the nine reservations, and they were so widely separated he could do little. (Agents' Reports for 1855 to 1861; R. 115–128.)

The report of September, 1857, says the "great body" of the Indians were retrograding. He gives as the main causes: "1, The use of whisky; 2, *The Treaty of 1855;* 3, The immigration of whites into the country; 4, The errors of missionaries, supported by the government." (R. 123.) From 1857 on, practically all the reports speak of the hopeless condition caused by the small widely separated reservations. That of 1860 says (R. 126–7):

> The separated and scattered reservations would require more than a sleepless Argus to watch and guard them, particularly when the Indians themselves become their own destroyers * * *.
>
> The hunting grounds no longer furnish a livelihood, and the furs which have hitherto been so great a source of revenue are becoming scarce.

Several reports recommend that the Mississippi bands be removed to a large reservation to be created in the Leech Lake region, and that course was finally determined on.

The Secretary of the Interior, J. P. Usher, was in Minnesota in 1862, and there prepared a draft of a treaty to that end, but it was not executed. Later the chiefs of the two groups were again brought to Washington (February, 1863), where a treaty was finally signed on March 11th and promptly ratified by the Senate. (12 Stat. 1249.) The record contains copies of longhand notes of two interviews between the Indians and Commissioner Dole, and of two with the Secretary of the Interior himself. (R. 129–144.) These interviews were only preliminary and the final negotiations took place later between Commissioner Dole and Clark W. Thompson, Indian Superintendent at St. Paul, on the part of the United States, and Henry M. Rice, *Senator from Minnesota,* and the chiefs, for the Indians. No records of these final negotiations have been preserved. The preliminary interviews are, however, very important. Besides the purposes and motives of the government, they show that the Indians were at first almost entirely against the project; that the Indians who knew the Leech Lake country did not believe there was sufficient rice, game, and tillable soil there to support the additional Indian population; and that the Secretary of the Interior himself assured them that they ***could still hunt and fish and gather wild rice over the ceded territory to the north and west.*** By what representations the consent of the Indians was finally obtained we do not know, but presumably the main induce-

ment was the great area set apart for them out of the lands ceded in 1855.

By Article I the Indians ceded the six reservations of the Mississippi bands known as Gull Lake, Mille Lac, Sandy Lake, Rabbit Lake, Pokagomin Lake, and Rice Lake. Article II reads in part as follows:

> In consideration of the foregoing cession, the United States agree to set apart for the future homes of the Chippewas of the Mississippi *all the lands embraced within the following described boundaries,* excepting the reservations made and described in the third clause of the second article of the said treaty of February 22d, 1855, for the Pillager and Lake Winnibigoshish bands.

A new treaty was made the following year, namely, May 7, 1864 (13 Stat. 693), which practically superseded the treaty of 1863. It contained substantially the same provisions, but added a long, narrow strip of territory extending far to the northwest and there terminating on Red Lake River. It repeated in identical terms the language above quoted. This new reservation is shown in light pink on the second map at the back of the record, bearing the large figures 507. The three irregular tracts in darker pink are the reservations established by the treaty of 1855 for the Pillager and Winnibigoshish Bands. The green central area was all part of the new reservation and shows the final Leech Lake Reservation as cut down by

the next treaty (1867). The other provisions of the treaty of 1863–4 are not material here.

This treaty was signed by Senator Henry M. Rice, as one of the negotiators for the Indians. The preliminary interviews show that the Minnesota delegation in Congress knew what was going on, but it is abundantly clear that it never occurred to them, or to the Secretary, the Commissioner, or anyone else, that Minnesota could claim the swamp lands, or that the treaty-making power could not set apart for the Indians "all the lands embraced" in the boundaries described.

The treaty of 1867

The Indians had correctly described the Leech Lake country in their interviews with Secretary Usher. Little of the ground about the lakes was fit for cultivation. The ground in general was cold and barren, and the Pillagers and Winnibigoshish were already in possession of the few and scattered tillable spots. The Mississippi bands, like all Indians, were reluctant to remove to it. An old trader among them wrote (R. 150):

> I have always noticed that it is ten, I might say twenty, times more difficult to remove Indians than it is to make treaties with them.

Apparently only the Rabbit Lake and Sandy Lake bands were actually removed to the new reservation, and this did not occur for some years. They were placed at White Oak Point by a re-

moval which the agent characterized as a fraud on the Government, and were soon in a deplorable condition. (R. 153, 155.) The Otter Tail band remained in their old position on lands ceded in 1855, surrounded by whites, and were a continual source of trouble. (R. 153.)

The treaties of 1863 and 1864 were in fact merely tentative. The bands as a whole were dissatisfied and unsettled, because they did not know what was to be done with them. (R. 148.)

On the Government's part new projects were almost immediately under consideration, one apparently being a wholesale removal to the Red Lake country. (R. 147, 148.) In the winter of 1867 the chiefs were again brought to Washington, and a new treaty was concluded March 19th. (16 Stat. 719.) No record of the negotiations was preserved, but the treaty itself shows the main inducement. It contains the following preamble:

> Whereas, by a certain treaty ratified March 20th, 1865, between the parties aforesaid, a certain tract of land was, by the second article thereof, reserved and set apart for a home for the said bands of Indians, and by other articles thereof provisions were made for certain moneys to be expended for agricultural improvements for the benefit of said bands; and whereas it has been found that the said reservation is not adapted for agricultural purposes for the use of such of the Indians as desire to devote themselves

> to such pursuits, while a portion of the bands desire to remain and occupy a part of the aforementioned reservation and to sell the remainder thereof to the United States: Now, therefore, it is agreed, etc.

By the first Article, the Indians ceded some 2,000,000 acres from the newly created Leech Lake Reservation, reducing it to the area shown in green on the map. Doc. 63 (Minnesota 2). A new reservation was created as follows (Art. II):

> In order to provide a suitable farming region for the said bands there is hereby set apart for their use a tract of land, to be located in a square form as nearly as possible, with lines corresponding to the government surveys; which reservation shall include White Earth Lake and Rice Lake, and contain thirty-six townships of land: and such portions of the tract herein provided for as shall be found upon actual survey to lie outside of the reservation set apart for the Chippewas of the Mississippi by the second article of the treaty of March 20th, 1865, shall be received by them in part consideration for the cession of lands made by this agreement.

There was no exception of swamp or any other land, and the article was unquestionably an unqualified stipulation that *all the lands in the thirty-six townships* should be Indian lands. It was not a mere gift, but the article itself recites that it is to be "received by them in part consideration for the cession of lands made by this agreement."

That the lands were wholly unsurveyed is shown by Articles VI and VII, which provide that the new reservation shall be located "as near as may be" and shall later be surveyed for purposes of individual occupation and ultimate allotment. The provision that the reservation should include White Earth and Rice Lakes was of the utmost importance; and one of the main considerations with the Indians. Rice Lake is one of the greatest producers of wild rice in the whole country. It is about four miles long and contains about 1,650 acres. All but 100 acres was densely covered with wild rice in 1918, and in that year 230 families were encamped about it and engaged in the harvest. The examining agent estimated that its average production, if all were gathered, would be at least 15,500 bushels, worth at going prices $170,000 to $200,000. The lake is wholly surrounded by swamp lands, most of which have been patented to the State, and a large part already sold by the State to white men, *who are claiming ownership of the bed under the local law of Minnesota.* (R. 439.) This lake is within a drainage project, and in 1922, notwithstanding an injunction suit, the lake was drained and the entire rice crop destroyed just before harvest time. It has since been partially dammed and rice is again growing. (R. 439–449.)

After the creation of the White Earth Reservation the activity in treaty-making ceased for some years. The Indians, however, removed slowly and

reluctantly to White Earth, and no effort was made to remove them forcibly. They roamed freely about the country, becoming more and more demoralized. The same was true of the Otter Tail Band. The picture of their condition, as well as that of the Pillagers and Winnibigoshish, during the ensuing years is a doleful one. See reports of Agents. (R. 151–160.) At Leech Lake the rice was growing less and less, and, to cap the climax, the Government, without the consent of the Indians, caused reservoir dams to be constructed at the outlets of Leech and Winnibigoshish Lakes and flooded 46,920 acres of their land and destroyed their gardens, their rice fields, their hay land, their fish, and their graveyards. (R. 185.) This was done under Acts of Congress which provided for a determination of damages by the Secretary of the Interior. (21 Stat. 481; 22 Stat. 204.) The damage was finally fixed at $150,000, but nothing was paid the Indians for many years, and this act of bad faith was long a sore spot with them. On August 19, 1890, Congress finally appropriated the money. (26 Stat. 336, 357.)

The proceedings of the Northwest Commission

By the Indian Appropriation Act of May 15, 1886 (24 Stat. 29, 44), Congress authorized the Secretary to negotiate treaties with the Chippewa and other Indian tribes in the Northwest. A commission was appoined by the Secretary, consisting of Hon. John V. Wright, of Tennessee;

Bishop H. B. Whipple, of Minnesota; and Charles F. Larrabee.

This body became known as the Northwest Commission. Bishop Whipple, of the Methodist Episcopal Church, was a lifelong friend of the Indians, and was especially familiar with the Chippewas and their affairs. The Act authorized negotiations with the Chippewas—

> for such modification of existing treaties * * * and such change of their reservation as may be deemed desirable by said Indians and the Secretary of the Interior, and as to what sum shall be a just and equitable liquidation of all claims which any of said tribes now have upon the Government.

This Commission visited all the Chippewa reservations in Minnesota and held open sessions with all the Indians of the various bands who could be induced to attend. In general, and with some exceptions inferable from statements appearing, all that was said was reported stenographically and is printed as part of their report. (Senate Doc. No. 115, 49th Cong., 2d Sess.)

Two agreements were concluded, one with the Mississippi Pillager and Winnibigoshish Bands and one with the Red Lake Band. The former provided for the removal of all the Indians affected by it to the White Earth Reservation, and it is usually styled the White Earth Agreement. The Leech Lake Reservation, as reduced by the

treaty of 1867, and all other lands outside the White Earth, were to be ceded. The ceded lands of the Mississippi bands, *without any distinction as to class or character*, were all to be appraised and sold at auction for the benefit of the Indians. (Art. IX.) The ceded lands of the Pillagers and Winnibigoshish were to be classified as "timbered and untimbered," and all appraised and sold at auction for their benefit.

The Red Lake Agreement provided for the cession of about 2,000,000 acres in trust, to be classified as "timbered and untimbered" land and appraised and sold at auction, etc. (Art. II, p. 22.)

Both agreements provided for a tribal fee title to the surplus reserved lands after the making of all allotments.

An adverse report was made on these agreements by Representative, afterwards Senator, Nelson, of Minnesota, as Chairman of the Committee on Indian Affairs, and they were never ratified by Congress. (House Report No. 789, 50th Cong., 1st Sess.) The Committee objected to the sale of the lands at auction as likely to place large tracts in the hands of speculators, but had no word to say about the swamp lands or the provisions for their sale as "untimbered" or of any possible right or claim to them by the State.

One part of the report discloses the attitude of mind with which the House Committee considered the property rights of Indians as follows:

> The Red Lake agreement is also open to serious objection in perpetuating forever the tribal evolution of those 1,100 Red Lake Indians, by *giving them* in perpetuity a tribal fee title to a cool million acres of agricultural lands, less the individual allotments, which could not well exceed 160,000 acres of land. This seems *the height of prodigality,* to first *give* each of these Indians a farm and then *give* the whole band—only 1,100 of them—over 800,000 acres in common in fee forever.

While this court recognizes the doctrine of an underlying fee, or exclusive right of preemption, in the United States, certainly it has never sanctioned the idea that when reservations are made of portions of territory occupied by Indians from time immemorial, the United States is *giving* them anything.

The stenographic report of the negotiations of the Northwest Commission throws a flood of light upon the transactions of the government with these Indians. It shows especially their faith and dependence upon the verbal representations and promises made them in the course of the negotiations, and their surprise and disappointment when the actual provisions of the written instrument are brought home to them in the course of administration and interpretation.

As one of the inducements to removal to White Earth, the Commission repeatedly emphasized to

each band the quantities of wild rice there available.

The Commission, in its report, comments upon the evils of making treaties at Washington as follows (p. 13):

> In past years the treaties with these and other Chippewa Indians have been made with a few of the chiefs and headmen only; *in one instance but two being present;* and, with the single exception of the Red Lake and Pembina Treaty of 1863–'64, every treaty since 1854 has been made in Washington. Such has been the custom, and it has been a most fruitful source of discord and dissatisfaction on the part of the great body of the Indians.

The Nelson Act of January 14, 1889 (25 Stat. 642)

On recommending the rejection of the agreements negotiated by the Northwest Commission, the House Committee announced that it had prepared a bill in place thereof making propositions to the Chippewa Indians to become effective upon their acceptance. This bill was passed in 1889, became known as the Nelson Act, and was accepted by the Indians in 1890. This legislation has been before this court in various aspects. *Minnesota* v. *Hitchcock,* 185 U. S. 373; *United States* v. *Mille Lac Chippewas,* 229 U. S. 498; *United States* v. *Holt State Bank*—the *Mud Lake* case—argued last term and not yet decided.

Pursuant to this Act the Indians ceded all the enlarged Leech Lake Reservation together with the three small Pillager and Winnibigoshish reservations inclosed within its boundaries; all the Mille Lac Reservation; four townships off the east side of the White Earth; about 2,200,000 acres from the Red Lake; and the small reservations in the northeastern part of the State at Bois Forte, Grand Portage, and Fond du Lac. Individuals of each band, however, had the right to take allotments from the ceded lands of their own reservation, if they chose, rather than remove to White Earth.

The Act repaired, so far as could be done, the wrongs done by previous treaties in taking from separate bands cessions of large parts of the common property of the whole tribe. To that end all the lands ceded, wherever situate, were to be sold for the common benefit of all.

The provisions of special importance here are contained in Section 4. It declares that "the lands so ceded" shall be surveyed and thereafter personally examined by examiners.

> who shall go upon said lands thus surveyed and personally make a careful, complete, and thorough examination of the same by forty-acre lots, for the purpose of ascertaining on which lots or tracts there is standing or growing pine timber, which tracts on which pine timber is standing or growing for the purposes of this Act shall be termed "pine lands," etc.

The Section then directed that the "pine lands" be appraised and sold at public auction, etc. Then follows this:

> All other lands acquired from the said Indians on said reservations other than pine lands are for the purposes of this Act termed "agricultural lands."

Section 6 provides that "when any of the agricultural lands on said reservation" have been surveyed, they shall, on thirty days' published notice "be disposed of by the United States to actual settlers only under the provisions of the homestead law."

The sole exception was in the second proviso to Section 6, reading:

> That nothing in this act shall be held to authorize the sale or other disposal under its provision of any tract upon which there is a subsisting, valid, preemption or homestead entry, but any such entry shall be proceeded with under the regulations and decisions in force at the date of its allowance, and if found regular and valid, patents shall issue thereon.

The Act contained nothing about school lands or swamp lands, or any possible claims of Minnesota to any of the lands thereby ceded. The prolonged negotiations by which the assent of the Indians was procured were taken down stenographically and accompanied the report of the Commission, and are reproduced in full in the record (pp. 194–

414). As in all previous negotiations there was no hint of any possible claim of the State to any of the ceded lands. Beyond all question the negotiations were conducted and the cessions made on the absolute assumption that all the ceded lands were to be sold for the benefit of the Indians. But the matter does not lie in inference from silence merely. In their report the Commissioners say (R. 191):

> On some of the reservations there are *swamps* of valuable cedar and tamarac which cannot be cultivated or sold for agricultural purposes, and the land is liable to be denuded of the timber by trespassers. The Indians request that such land be withheld from sale under the preemption laws [meaning the homestead laws], and that the Secretary of the Interior be authorized to cause the same to be sold in such manner and upon such terms as to him shall seem best for their interest.

The Secretary of the Interior, in his report to the President, *concurs in this recommendation,* and recommends legislation to carry it into effect. (R. 168.) That there were large quantities of valuable timber growing on the swamp lands is further shown by the fact that in the bill of complaint the Government alleges that the State has cut and is cutting and disposing of large quantities of timber from the lands erroneously patented to her and asks for an injunction and for a disclosure as to the quantities, etc., thus taken (R.

7, sub. 14); and the State, without denying the allegations, promises to make the disclosures asked (R. 66, Par. VI).

It is clear beyond question, therefore, that everybody connected with the transactions then understood that all the lands within the boundaries of the ceded areas were to be disposed of for the benefit of the Indians except those embraced in then existing and valid preemption and homestead entries. The Act itself is susceptible of no other construction. If it be supposed that the choice of the language "*all other lands acquired from the said Indians on said reservations* other than pine lands" was intended as anything else than a mere substitute for "all the lands ceded," yet on analysis the two expressions mean exactly the same thing. Possibly the use of the phrase was suggested by the fact that on the Mille Lac Reservation there were lands settled and entered by whites, on the theory that they were open to settlement after the qualified cession of 1863; and in 1889 there was a pending dispute about them. *United States* v. *Mille Lac Chippewas, supra.*

From the foregoing narrative it is abundantly demonstrated that the United States, by the treaties of 1863-4 and 1867, stipulated in absolute and unqualified terms that all the lands within the boundaries of the enlarged Leech Lake and the White Earth reservations were set aside for the Indians; and that in the agreement under the Nelson Act it

again solemnly stipulated that all the land then ceded from those and other reservations should be disposed of for the benefit of the Indians, with the single exception above stated. When, therefore, the officials of the Government patented the swamp lands to the State, it was in direct violation of solemn treaty engagements, a breach of faith which at this late day the United States in this suit seeks to repair and make good. It was a breach of faith, whether the United States promised what it had power to perform and did not, or whether through ignorance of the law or thoughtless indifference it made promises it could not perform, because the swamp lands had already passed beyond its control.

Unfortunately, this was not the first serious breach of faith of which the Indians had reason to complain. Especially there were three others of older date, which caused much embarrassment both to the Northwest Commission and the Commission which obtained the cessions under the Nelson Act, and in the latter negotiations led to one of the most dramatic and humiliating incidents ever experienced by the negotiators of a great nation.

In 1847 (9 Stat. 908) the Chippewas ceded to the United States some 700,000 acres on their southwestern border for the occupancy of the Menominee Tribe of Wisconsin, who were to be removed to it. The real consideration with the Chippewas was the interposition of this tribe between them and the Sioux, with a view to stopping the fierce war which for generations had raged between the two tribes;

and accordingly they received in addition a mere nominal consideration in goods. In the treaty itself, however, this purpose was expressed only in the following equivocal language (Art. III):

> It is stipulated that the country hereby ceded shall be held by the United States as Indian land until otherwise ordered by the President.

To carry out the plan, the Government, by treaty of 1848 (9 Stat. 952), procured a cession of the Menominee lands in Wisconsin in exchange for this Minnesota tract. Later the Menominees declined to remove, and by a treaty of 1854 (10 Stat. 1064) ceded the Minnesota lands to the Government in exchange for a new home in Wisconsin. The Government then opened the Minnesota lands to settlement. The real consideration was thus denied to the Chippewas, and the Government never recognized any further obligation to them. (R. 181–182.)

A second breach was when the Government, without consulting the Indians, erected dams at Leech, Cass, and Winnibigoshish Lakes, flooded 46,920 acres of their reservation lands, destroyed their gardens, their rice fields, their hay lands, their fish, and their graveyards, and failed for years to offer them compensation except in trifling sums which they rejected. (R. 182–186.)

The third instance was that numerous installments of annuities under older treaties were never paid, and in 1880 the books were examined and the

amount in arrears was found to be $118,400; yet payment thereof had never been made up to the time of the negotiations of 1890. (R. 178–180.)

In these negotiations these things were all brought up by the Indians. At Leech Lake, particularly, there were stormy sessions, and the Commissioners, honest and sincere men as they were, could not and did not attempt to deny these breaches of faith. The Indians finally demanded that the Commissioners raise their hands and solemnly promise that they would do their utmost to have an immediate settlement of these old scores; and that the Commissioners did in order to induce the savages to rely upon the new promises contained in the Nelson Act, among which was the promise that *all the lands* thereby to be ceded *should be sold for their benefit.*

The Secretary's decisions awarding the swamp lands to the State

The first decision was upon a claim by the State for the swamp lands in the ceded portion of the Red Lake Reservation. Her claim was denied on the ground that these lands had never been ceded before the Nelson Act and there was no time when the swamp land grant could have attached to them. (22 L. D. 388.) Accordingly, no patents have ever been issued for swamp lands there.

The decisions awarding to the State the swamp lands ceded from the other reservations are reported in 27 L. D. 418; 32 L. D. 328, and 37 L. D. 397.

These decisions deal with the questions involved in a purely technical way, and, it is hardly too much to say, decide them according to the principles properly applicable in cases of conflicting grants by the government of lands unquestionably its own. They necessarily refer to the treaties of 1863–4 and 1867, but contain no comments on the unqualified stipulations therein contained, and betray no consciousness that the patenting of the swamp lands to the State involved a breach of treaty obligations. While the idea is not expressed, it would seem that the decisions must have been made upon the assumption that the Indians knew, or were chargeable with knowledge, that the swamp lands had passed to the State at the time the new and enlarged reservations were created, and therefore formed no part of the consideration upon which they executed the two treaties and gave up other lands indubitably theirs.

The first decision (27 L. D. 418) discusses only two questions: First, whether the swamp-land grant of 1850, as extended to Minnesota by the Act of 1860, was a grant *in praesenti,* and this was decided in the affirmative; second, whether the treaties of 1863–4 and 1867 were made *pursuant to* the Act of 1854 authorizing the President to negotiate for the cession of all the Chippewa lands in Minnesota, so as to cause the lands thereby again reserved to fall within the exception of "lands * * * sold or disposed of (in pursuance of any

law heretofore enacted)." This was decided in the negative, and that ended the matter.

The second decision (32 L. D. 328) related to swamp lands of the "Mississippi Chippewas" reservation, meaning apparently that part of the enlarged Leech Lake Reservation assigned to the Mississippi band by the treaty of 1863–4. This decision merely followed perfunctorily that in 27 L. D. 418.

The third decision (37 L. D. 397) followed the prior ones, but discussed some additional questions, which will be dealt with later. It also referred to an opinion of the Attorney General, dated June 15, 1906, sustaining the position previously taken by the Interior Department. (25 Opin. 626.) That opinion also deals with the matter simply as one involving the construction of the swamp-land grant, and discloses no consciousness that it was sanctioning the breach of treaty stipulations. It dismisses the Indians with the remark that their rights "seem now to have been reduced by the Act of January 14, 1889, to a right to receive in money proceeds of the lands," and adds:

> I do not think any such supposed rights of the Indians to money should now stand in the way of the fulfillment of the Government's grant of the lands to the State. Equivalent money could be paid to the Indians if any is due for swamp lands in the former reservation.

It remains to be added that under these decisions a large portion of the swamp lands lying within that part of the White Earth Reservation not ceded under the Nelson Act (only four townships were ceded) have also been patented to the State. And if the grounds given for those decisions are valid, it follows necessarily that these lands were properly patented. That reservation, as so reduced, exists to-day as the final home of all the Chippewas (except those of Red Lake) who could be induced to remove to it and take their allotments there.

Decisions of the Court

The District Court for Minnesota, however, has totally disagreed with the Secretary's decisions. In some instances lands allotted to Indians were also patented to the State, or selected by the State, as swamp. Two controversies thus arising have been decided by that court, and in one case it held that the patent to the State was void, and in the other that a State swamp selection was void and constituted no obstacle to an allotment of the same lands to an Indian. No opinions were given, but we have reproduced in the record the decrees and sufficient of the pleadings, findings, etc., to show the decisions made. (R. 450–457.)

The patenting of the lands

Under the decisions above discussed, six patents were issued purporting to convey swamp lands lo-

cated in the ceded Leech Lake Reservation, and in the White Earth Reservation and the four townships ceded from it. The first patent was dated May 17, 1900, and the last June 10, 1912. Together they embraced 152,124.18 acres. In the meantime, a series of controversies had arisen between the land department and the State over the administration of the swamp-land grant, and on November 19, 1913, the issuance of swamp-land patents was suspended. On July 14, 1915, the Secretary of the Interior made a written demand on the Governor for the reconveyance of several hundred thousand acres which he claimed had been erroneously patented, but no conveyance was ever made. From that time until 1922 negotiations were carried on between the land department and the State officials with a view to an amicable adjustment, but these efforts failed. (R. 10, 66.)

The State is claiming additional swamp lands not yet patented. The locations of the lands patented and claimed are shown on the two maps at the back of the record, the patented lands appearing in pink and the additional lands claimed in green.

On the White Earth map we call especial attention to the lands lying around Wild Rice Lake. All except one small fragment on the west side are swamp. Most have already been patented, and many tracts have already been sold by the State to private parties. This is the lake which in 1918 produced from $150,000 to $200,000 worth of wild

rice, and which, on account of its wild rice, was especially named in the treaty of 1867 creating the reservation. The white purchasers are now claiming the bed of this lake under the local law of Minnecota, and if this court, in the *Mud Lake case* (*United States* v. *Holt State Bank*), argued last term, shall decide that the State law governs the rights of riparian owners, the Chippewa Indians will lose this lake which produces the best *agricultural* crop raised on the reservation. That result will follow, whichever party prevails in the present litigation, because, as to those swamp lands which the State has sold we felt compelled to pray only for their value from the State, as we believed we could not join as defendants, without ousting the original jurisdiction of this court, those citizens of Minnesota who hold deeds from her to Indian swamp lands. *California* v. *Southern Pacific Co.*, 157 U. S. 229.

The State's lack of equities

As against the overpowering equities of the Indians, how stands the case with the State?

She was a mere donee of the swamp lands, taking a munificent gift without any consideration whatever. But a duty was imposed upon her in connection with the gift. The swamp lands were granted for the express purpose of enabling the States "to construct the necessary levees and drains to reclaim the swamp lands therein," and it was further provided (Act September 28, 1850, 9 Stat. 519):

> That the proceeds of said lands, whether from sale or by direct appropriation in kind, shall be applied, exclusively, as far as necessary, to the purpose of reclaiming said lands by means of the levees and drains aforesaid.

The fundamental purpose was, of course, that the swamp lands should pay for their own drainage so as to pass to home makers and cultivators at low prices.

Of the Chippewa swamp lands patented to her, however, the State has devoted neither any lands in kind nor any proceeds to drainage purposes. Nineteen years before the date of the first patent the State had amended her constitution so as to divert her whole swamp-land grant from the purpose expressed in the granting Act. This amendment was adopted November 8, 1881 (Laws Minn. 1883, p. 3), and the pertinent part reads as follows:

> All swamp lands now held by the State, or that hereafter may accrue to the State, shall be appraised and sold in the same manner and by the same officers, and the minimum price shall be the same, less one-third, as is provided by law for the appraisement and sale of the school lands under the provisions of title one of chapter thirty-eight of the General Statutes. The principal of all funds derived from sales of swamp lands as aforesaid shall forever be preserved inviolate and undiminished. One-half of the proceeds of said principal shall be appropriated to the common schools fund of the

> State; the remaining one-half shall be appropriated to the educational and charitable institutions of the State in the relative ratio of cost to support of said institutions.

A further amendment was made in 1916 (Laws Minn. 1916–17, p. 1), as follows:

> A revolving fund of not over two hundred fifty thousand dollars ($250,000) may be set apart from the fund derived from the sale of school and swamp lands, to be used in constructing roads, ditches, and firebreaks in, through, and around unsold school and swamp lands and in clearing such lands, such fund to be replenished as long as needed from the *enhanced value realized from the sale of such lands so benefited.*

The State, however, alleges that she has appropriated over $2,000,000 of general revenues and that her local subdivisions have spent vast sums in addition for drainage of the swamp lands, and implies without directly stating that this was in substance a compliance with the purpose expressed in the grant. (R. 66.) This is wholly illusory.

Less than one year after the issuance of the first of these patents, the State Legislature passed a general drainage law. (Laws 1901, c. 258, p. 418.) The costs were to be paid by assessment of benefits (§ 6 and § 22):

> All lands owned by this State * * * shall be liable for such benefits the same as owners of taxable lands.

By § 23 money was appropriated for the first and ensuing years to pay assessments on the State lands.

These provisions have been in force ever since.

On April 13, 1905, an Act was passed for the appraisal and sale of the "school or other State lands" and it was provided (Laws Minn. 1905, c. 162, p. 196) that:

> No school or other state lands shall be sold until so appraised, nor for a less price than five dollars ($5.00) per acre.
>
> * * * * *
>
> After the State has constructed or has been assessed for any public ditch or drain, the lands hereby assessed or improved shall thereafter be reappraised before being offered for sale.

The reappraisement, of course, added to the minimum price, or the previous appraisal, at least the amount of benefits assessed. So that the moneys appropriated by the Legislature for drainage always came back and went into the educational and charitable fund, often, no doubt, with a welcome increase.

ARGUMENT

I

The propositions of fact

By the foregoing historical recital and references to parts of the records we have already demonstrated our three propositions of fact, namely:

1. The treaty of 1855 was negotiated under circumstances of haste and pressure, with chiefs not

adequately representing their bands; the small scattered reservations constituted by it were inadequate to the Indian needs; and the whole arrangement was so disastrous to them as to impose upon the Government a moral obligation to restore some of the lands then ceded.

2. This moral obligation was recognized and acted upon by the Government in the treaty of 1863–4 by creating the enlarged Leech Lake Reservation.

3. The lands thus restored were unfit for agriculture, insufficient and inadequate in other respects, and this was expressly acknowledged by the United States in the treaty of 1867 establishing the White Earth Reservation on lands ceded in 1855.

II

First proposition of law

We have in the same way already demonstrated our first proposition of law, namely:

That the treaties constituting the new and enlarged reservations out of lands ceded in 1855, were without exceptions or qualifications and constituted solemn engagements that *all* the lands included in those reservations should be Indian lands; and that the Nelson Act contained an equally solemn engagement that *all* the lands (save only those embraced in pending *entries*) should be sold for the benefit of the Indians, either as "pine lands" or "agricultural lands."

III

The special defenses

We meet next the defenses of the statute of limitations and laches; that the Indians are "essential parties," and that "the judicial power of the United States does not extend to suits brought by or on behalf of individuals against a State."

1. *Limitations.*—The statute especially pleaded is the Act of March 3, 1891. (26 Stat. 1096, 1099, c. 561, § 8.) The only other statute is that of March 2, 1896. (29 Stat. 42, c. 39, § 1.) As to both, this court has expressly decided that they apply only to public lands subject to disposition under the land laws and not to Indian lands. *Northern Pacific Ry. Co.* v. *United States,* 227 U. S. 355, 367; *La Roque* v. *United States,* 239 U. S. 62, 68.

2. *Laches.*—"The defenses of stale claim and laches can not be set up against the Government." *United States* v. *Dalles Military Road Co.,* 140 U. S. 599, 632, citing *United States* v. *Kirkpatrick,* 9 Wheat. 720; *United States* v. *Van Zandt,* 11 Wheat. 184; *United States* v. *Nicholl,* 12 Wheat. 505; *Dox* v. *Postmaster General,* 1 Pet. 318; *Lindsey* v. *Miller,* 6 Pet. 666; *Gibson* v. *Chouteau,* 13 Wall. 92; *Gaussen* v. *United States,* 97 U. S. 584; *Steele* v. *United States,* 113 U. S. 128; *United States* v. *Insley,* 130 U. S. 263.

And if laches were ever imputable to the United States it certainly can not be recognized as a defense where the suit is to assert the rights of a

people dependent upon it for protection and actually incapable of asserting their own rights against the State, even though they may be citizens thereof.

3. *Parties.*—The mere granting of citizenship does not dissolve the tribal relation and leave the Indians to assert their own rights in the courts. The United States may, and still does continually, bring suits in its own name, without joining them as plaintiffs, to enforce the trusts which devolve upon it under treaties and Acts of Congress. *Cherokee Nation* v. *Hitchcock,* 187 U. S. 294, 307–8; *United States* v. *Rickert,* 188 U. S. 432; *United States* v. *Celestine,* 215 U. S. 278; *Tiger* v. *Western Investment Co.,* 221 U. S. 286, 311; *United States* v. *Sandoval,* 231 U. S. 28; *United States* v. *Nice,* 241 U. S. 591, 598.

It is true that in *United States* v. *Waller,* 243 U. S. 452, this court held that a Chippewa Indian who, under the Clapp Amendment (34 Stat. 1015, 1034), had been invested with the full fee title to his allotment free from all restriction on alienation must assert his own rights to that property as against another individual, and the United States had no capacity to sue for him. But here the United States is suing to remove a cloud on the title to lands still held in trust by the Government under the Nelson Act, for purposes of sale, which trust it alone can execute. Neither a single Chippewa Indian citizen nor all of them together could maintain such a suit, or execute the trust even if they could recover the land. Manifestly the

United States alone can do both, and the duty to carry out the trust still exists, notwithstanding the grant of citizenship.

4. *Jurisdiction.*—For substantially the same reasons the jurisdictional objection is without merit. While the suit, if successful, will ultimately redound to the benefit of individual Indians by the disposal of the lands by the United States, the placing of the proceeds to the credit of the Indians and their final distribution, yet no individual can be said to have a separate interest in the fund while the lands are still unsold and the legal title thereof is held by the United States in trust for purposes of sale. In other words, the United States has full power to do all things necessary to enable it to execute the trust and perform the duties it assumed under the Nelson Act and the cessions made pursuant thereto.

IV

The swamp-land grant of 1850 did not pass an immediate, indefeasible title to lands unsurveyed, not open to settlement, and still in the actual occupancy of Indians

A. The swamp-land legislation

The original swanp-land grant of September 28, 1850 (9 Stat. 519), reads as follows:

> That to enable the State of Arkansas to construct the necessary levees and drains to reclaim the swamp and overflowed lands therein, the whole of those swamp and overflowed lands, made unfit thereby for cultivation, which shall remain unsold at the

passage of this act, shall be, and the same are hereby, granted to said State.

SEC. 2. *And be it further enacted,* That it shall be the duty of the Secretary of the Interior, as soon as may be practicable after the passage of this act, to make out an accurate list and plats of the lands described as aforesaid, and transmit the same to the governor of the State of Arkansas, and, at the request of said governor, cause a patent to be issued to the State therefor; and on that patent, the fee simple to said lands shall vest in the said State of Arkansas, subject to the disposal of the legislature thereof: *Provided, however,* That the proceeds of said lands, whether from sale or by direct appropriation in kind, shall be applied, exclusively, as far as necessary, to the purpose of reclaiming said lands by means of the levees and drains aforesaid.

SEC. 3. *And be it further enacted,* That in making out a list and plats of the land aforesaid, all legal subdivisions, the greater part of which is "wet and unfit for cultivation," shall be included in said list and plats; but when the greater part of a subdivision is not of that character, the whole of it shall be excluded therefrom.

SEC. 4. *And be it further enacted,* That the provisions of this act be extended to, and their benefits be conferred upon, each of the other States of the Union in which such swamp and overflowed lands, known as designated as aforesaid, may be situated.

For many years after the grant of 1850 there was great delay on the part of the Secretary of the Interior in identifying the swamp lands, due mainly to lack of surveys, want of sufficient force, etc. Many of the States became impatient and undertook, themselves, to identify and sell the swamp lands. Great confusion resulted, because the States sold lands as swamp which were entered, under the preemption and other land laws, as dry lands, and *vice versa*. See statement of these conditions in *Tubbs* v. *Wilhoit,* 138 U. S. 134, 137–8.

The conflict of claims thus arising led to a number of relief Acts, among which the two following are very significant as legislative constructions of the original grant.

Act of March 2, 1855 (10 Stat. 634):

> That the President of the United States cause patents to be issued, as soon as practicable, to the purchaser or purchasers, locator or locators, who have made entries of the public lands, claimed as swamp lands, either with cash, or with land warrants, or with scrip, prior to the issue of patents to the State or States, as provided for by the second section of the act approved September twenty-eight, eighteen hundred and fifty, entitled "An Act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits," any decision of the Secretary of the Interior, or other officer of the government of the United States, to the contrary notwithstanding: *Provided,* That in all cases where any State,

through its constituted authorities, may have sold or disposed of any tract or tracts of said land to any individual or individuals prior to the entry, sale, or location of the same, under the preemption or other laws of the United States, no patent shall be issued by the President for such tract or tracts of land, until such State, through its constituted authorities, shall release its claim thereto, in such form as shall be prescribed by the Secretary of the Interior: *And provided,* further, That if such State shall not, within ninety days from the passage of this act, through its constituted authorities, return to the General Land Office of the United States, a list of all the lands sold as aforesaid, together with the dates of such sale, and the names of the purchasers, the patents shall be issued immediately thereafter, as directed in the foregoing section.

SEC. 2. *And be it further enacted,* That upon due proof, by the authorized agent of the State or States, before the Commissioner of the General Land Office, that any of the lands purchased were swamp lands, within the true intent and meaning of the act aforesaid ,the purchase money shall be paid over to the said State or States; and where the lands have been located by warrant or scrip, the said State or States shall be authorized to locate a quantity of like amount, upon any of the public lands subject to entry, at one dollar and a quarter per acre, or less, and patents shall issue therefor, upon the terms and conditions enumerated in the act aforesaid:

Provided, however, That the said decisions of the Commissioner of the General Land Office shall be approved by the Secretary of the Interior.

It is perfectly apparent that Congress did not then understand that the original grant conveyed an immediate and indefeasible title to specific tracts of swamp land. Otherwise it would not have directed the issuance of patents to entrymen under other land laws of lands "claimed as swamp."

The second Act was passed March 3, 1857 (11 Stat. 251), and reads as follows:

> That the selection of swamp and overflowed lands granted to the several States by the act of Congress, approved September twenty-eight, eighteen hundred and fifty, entitled "An Act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits," and the act of the second of March, eighteen hundred and forty-nine, entitled "An act to aid the State of Louisiana in draining the swamp lands therein," heretofore made and reported to the Commissioner of the General Land Office, *so far as the same shall remain vacant and unappropriated, and not interfered with by an actual settlement under any existing law of the United States,* be and the same are hereby confirmed, and shall be approved and patented to the said several States, in conformity with the provisions of the act aforesaid, as soon as may be practicable after the passage of this law: *Provided, however,*

> That nothing in this act contained shall interfere with the provisions of the act of Congress entitled "An Act for the relief of purchasers and locators of swamp and overflowed lands," approved March the second, eighteen hundred and fifty-five, which shall be and is hereby continued in force, and extended to all entries and locations of lands claimed as swamp lands made since its passage.

It is manifest that if the grant conveyed an absolute present title, Congress had no right to except from the confirmation swamp lands "interfered with by an actual settlement under any existing law," etc.

B. Decisions under the swamp land act

The decisions of the Supreme Court under the swamp land grant are numerous and some are hard to reconcile with others. The inconsistencies in the concrete decisions are more apparent than real, and, such as they are, arose from the struggle of the court to do justice as between *private* claimants asserting rights as purchasers of swamp lands from the States and other private claimants asserting rights or title under the preemption, homestead, or other general land laws, or under conflicting grants in aid of railroads or other public improvements.

The difficulties confronting the courts in thus doing justice between private claimants arose mainly from the fact above stated that while the States

were disposing of lands as swamp the United States was disposing of the same tracts as non-swamp under the general land laws or under other grants, without any actual examination or knowledge of their true character.

So far as concerns the *general expressions* used in the opinions, all the cases agree that the swamp land grant was a grant *in praesenti;* and the earlier opinions, especially those of Mr. Justice Field, lay special stress upon this feature; but all the later cases, while agreeing that the grant is *in praesenti,* say, with equal emphasis, that it gave but an *inchoate* right, and title did not pass until the lands were identified by the Secretary of the Interior, or by the States first and then approved by him.

As to concrete decisions, the cases divide themselves into three classes.

1. Cases in which the States had sold the lands to others, and the Secretary had failed or refused to identify them as swamp or nonswamp. In these cases the court, *expressly on the ground that the Secretary had failed to perform his duty, and in order to prevent a failure of justice,* held that the true character of the lands could be shown by parole or other evidence, and if proven to be swamp, the swamp-land claimant should prevail.

Among the notable cases of this character are: *Railroad Co.* v. *Fremont County,* 9 Wall. 89; *Railroad Co.* v. *Smith,* 9 Wall. 95; *Wright* v. *Roseberry,* 121 U. S. 488. *Tubbs* v. *Wilhoit,* 138 U. S.

134, was of the same general character, though a resort to parole evidence was not found necessary in that case. Besides, the concrete decisions in the last two cases mentioned were not made under the swamp-land grant alone, but under that Act and the Act of July 23, 1866 (14 Stat. 218, c. 219), to quiet titles in California. This is shown in the former case at p. 511, *et seq.*, and in the latter by the whole opinion.

2. Cases in which the Secretary had made a *timely* identification of the lands as swamp or non-swamp, either by listing them as swamp or by patenting or certifying them under other grants.

In these cases the Secretary's determination is always held to be conclusive, and no other evidence is admissible to show the true character of the lands.

Chandler v. *Calumet & Hecla M. Co.*, 149 U. S. 79.
Ehrhardt v. *Hogaboom*, 115 U. S. 67.
French v. *Fyan*, 93 U. S. 169.
McCormick v. *Hayes*, 159 U. S. 332.
Rogers Locomotive Works v. *Emigrant Co.*, 164 U. S. 559.

It is apparent that the decisions last referred to are utterly inconsistent with the idea that an indefeasible title or right to all the lands actually swamp within their borders passed to the State immediately upon the passage of the swamp land granting Act; and it is just as clear that cases of the first class are exceptional, and apply only to

particular circumstances where the neglect of duty on the part of the land department made it necessary, in order to do justice between private claimants, to ascertain the actual character of the lands.

3. The third class of cases is just as inconsistent as the second with the theory that an indefeasible title or right passed to the State by the grant "*in praesenti.*"

They hold that even where the lands have been surveyed and the field notes have been agreed on as the test of swamp or nonswamp, it is still within the power of the Secretary, up to the actual issuance of the patent, to cause a resurvey and determination of the character of the lands to be made.

> *Michigan Land & Lumber Co.* v. *Rust,* 168 U. S. 589.
>
> *Brown* v. *Hitchcock,* 173 U. S. 473.
>
> *Niles* v. *Cedar Point Club,* 175 U. S. 300.
>
> *Little* v. *Williams,* 231 U. S. 335.
>
> *Chapman & Dewey Lumber Co.* v. *St. Francis Levee District,* 232 U. S. 186.
>
> *Lee Wilson & Co.* v. *United States,* 245 U. S. 24.

In contrast with the general language of some of the earlier opinions, note the following by Mr. Justice Brewer in *Brown* v. *Hitchcock, supra* (p. 476):

> Under the Swamp Land Act the legal title passes only on delivery of the patent. So the statute in terms declares. The second section provides that the Secretary of the Interior "at the request of said Governor, cause a patent to be issued to the State

> therefor; and on that patent, the fee simple to said lands shall vest in the said State": *Rogers Locomotive Works* v. *American Emigrant Company*, 164 U. S. 559, 574; *Michigan Land & Lumber Co.* v. *Rust*, 168 U. S. 589, 592. In this case the record discloses no patent, and *therefore no passing of the legal title.* Whatever *equitable rights or title* may have vested in the State, the legal title remained in the United States.

And, in *Chapman & Dewey Co.* v. *St. Francis, etc., supra* (p. 198), by Mr. Justice Van Devanter:

> But it is said on behalf of the Levee district that, even though the lands were not included in the patent, they passed to the State under the Swamp Land Act, independently of any patent, and thence to the district under the State Act of 1893. *The contention is not tenable.* The lands were never listed as swamp lands and their listing does not appear to have been even requested, doubtless because they were not surveyed. Assuming that in fact they were swamp lands, the State's title under the Swamp Land Act was at most inchoate and never was perfected.

The result of all these cases, therefore, is that, even under the original swampland grant, the States' rights prior to survey, identification, and patenting or certification were at most "inchoate," "not perfected." *There was no means by which the States could compel the Secretary of the Interior to cause executive officers of the government*

to identify, certify, or patent the swamp lands. He could not be coerced by mandamus or injunction. *Brown* v. *Hitchcock,* 173 U. S. 473; *Minnesota* v. *Hitchcock,* 185 U. S. 373; *Louisiana* v. *Garfield,* 211 U. S. 70; *Oregon* v. *Hitchcock,* 202 U. S. 60. And the United States itself has never given its consent to be sued by the States in respect to the swamp lands within their borders. *Oregon* v. *Hitchcock, supra.*

Now, a grant by the United States without consideration, not consummated by patent or any other instrument of title, "inchoate," *and not enforceable by any judicial or other process,* is certainly not of such dignity that the United States may not, in the performance of compelling moral obligations to its dependent wards, by treaties reserve a portion of those lands for their use and finally dispose of it for their benefit.

In the present case the fact is that before any patents were issued to the State for these lands, before any attempt by it or the land department to identify them as swamp or dry, even before any survey, the United States, recognizing that it had failed to make adequate provision for the future of these Indians, by solemn treaties established, out of lands formerly ceded but never actually vacated by them, new and enlarged reservations by language containing no exceptions and nothing whatever from which the Indians (or any white man) could have understood that the large areas of swamp land

within the boundaries named were not to become theirs as much as the dry lands.

Looking for the moment at the more technical side of the question the general rule is that while, as between rival private claimants under the general land laws, or under grants to the States, railroads, etc., the title when once passed by formal instrument relates back to the initiatory act, or to the date of the granting statute, *yet, as against the United States,* no right or title vests until payment is made for the lands or they are earned (being the equivalent of payment) by the doing of the things required of the grantee in fulfillment of the purposes of the grant. *Frisbie* v. *Whitney,* 9 Wall. 187; *Yosemite Valley Case,* 15 Wall. 77; *Shepley* v. *Cowan,* 91 U. S. 330.

The recent cases of *Payne* v. *Central Pac. Ry. Co.,* 255 U. S. 228; *Payne* v. *New Mexico,* 255 U. S. 367; *Wyoming* v. *United States,* 255 U. S. 489, are no exceptions to this rule. In the *Wyoming* case, the lands selected were paid for *at* the time of selection by the absolute conveyance to the United States of the base tract owned by the State; in the *New Mexico* case, the lands selected were paid for by the State's contemporaneous waiver of its right to other lands accrued under its grant but subsequently included within a national forest; and in the *Central Pacific* case, the lieu lands selected had already been earned (the equivalent of payment) by the construction of the road. In all three of these

cases everything required of the demanding parties by law and by the regulations of the Secretary had been fully performed, and there remained only the ministerial act of approval by the Secretary, and this, it was held, could not be withheld.

The present case is the first ever brought by the United States to recover swamp lands on any ground, and it is further differentiated by the fact that it is to recover Indian lands erroneously patented as swamp; and we can conceive of no valid reason why Frisbie v. *Whitney, supra, and the two cases cited with it do not apply.*

In view of the foregoing, we believe that the swamp-land grant was of no higher dignity and gave a right of no greater sanctity until the lands were surveyed and identified than the school grant itself, as to which this court, in a long line of decisions so familiar that it is unnecessary to cite them, has held that Congress may otherwise dispose of the lands up to the time the school sections are identified by actual survey. Certainly the inchoate right to unsurveyed, unidentified swamp lands was not superior to that trust, arising out of the Constitution itself, upon which the United States held the beds of navigable waters in the territories for the benefit of future States. And yet, that trust did not prevent the United States, before the admission of a State, from diverting portions of the beds of navigable waters to the purpose of fulfilling "international obligations" "or to carry out other public purposes appropriate to the objects

for which the United States hold the Territory." *Shively* v. *Bowlby,* 152 U. S. 1, 48. And, applying this doctrine, this court has upheld the power of the government, by an Indian treaty, to subject lands under navigable waters to an easement inconsistent with the full exercise of property and sovereign rights therein by the subsequently created State. *United States* v. *Winans,* 198 U. S. 371.

So that, tested by the rules above set forth, the United States had full power to otherwise dispose of these lands by treaty; and it did so dispose of them.

V

The act extending the swamp-land grant to Minnesota so modified its original terms as to clearly indicate that neither the legal title nor any vested equitable right was to pass until the issuance of patent

The Act of March 12, 1860 (12 Stat. 3, c. V), reads as follows:

> That the provisions of the act of Congress entitled "An act to enable the State of Arkansas and other States to reclaim the 'swamp lands' within their limits," approved September twenty-eight, eighteen hundred and fifty, be, and the same are hereby, extended to the States of Minnesota and Oregon: *Provided,* That the grant hereby made shall not include any lands which the Government of the United States may have reserved, sold, or disposed of (in pursuance of any law heretofore enacted) prior to the confirmation of title to be made under the authority of the said act.

SEC. 2. *And be it further enacted,* That the selection to be made from lands already surveyed in each of the States including Minnesota and Oregon, under the authority of the act aforesaid, and of the act to aid the State of Louisiana in draining the swamp lands therein, approved March second, one thousand eight hundred and forty-nine, shall be made within two years from the adjournment of the legislature of each State at its next session after the date of this act; and, as to all lands hereafter to be surveyed, within two years from such adjournment, at the next session, after notice by the Secretary of the Interior to the governor of the State, that the surveys have been completed and confirmed.

The exception in the first section of lands thereafter to be reserved, sold, or disposed of is inconsistent with the idea of an immediate passing of title, or even of an immediate vesting of an equitable right to any swamp lands at all; because any part, and no one could know in advance what part, of the swamp lands might be reserved, sold, or otherwise disposed of in strict accordance with the proviso.

The second section is even more significant. It is not only a modification of the Act of 1850 as to Minnesota and Oregon, but is an amendment of that Act affecting all the other States. It throws upon the States the burden and duty of making the selections; and if it means anything at all it means that the swamp lands must be selected within the times prescribed or not at all. Unless that is so,

the whole section would be wholly nugatory. But if the right to acquire the title to swamp lands depended upon the performance of future acts by the States, certainly they had acquired no vested right to any specific lands immediately on the passage of the Act.

But even if this provision were considered as meaningless or directory merely, in its application to the other States, it was an integral and original part of the Act of 1860, *and a modification of the original Act as extended to Minnesota and Oregon.* As to them, at least, the grant was in substance and effect an offer of the swamp lands to the two States to be accepted by selecting them as prescribed, and until so accepted no right, equitable or otherwise, vested.

If the Act was in any sense a grant *in praesenti,* then the lands revert to the United States on the failure of the State to select them within the prescribed time. This was expressly decided, under this statute, by Judge Deady in a case in Oregon. *Pengra* v. *Munz,* 29 Fed. 830, 834.

This, also, is the meaning given to the Act in the Revised Statutes of 1878, Sec. 2490. In that revision the direction to select within the times stated is expressly confined to the two States and *is made a part of the proviso* in the original first section, thus:

> The provisions of the act of Congress entitled "An act to enable the State of Arkan-

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> sas and other States to redeem" the swamp lands within their limits, approved September 28, A. D. 1850, extend to the States of Minnesota and Oregon: *Provided,* That the grant shall not include any lands which the Government of the United States may have sold or disposed of under any law, enacted prior to March 12, 1860, prior to the confirmation of title to be made under the authority of said act—and the selections to be made from lands already surveyed in each of the States last named, under the authority of the act aforesaid, shall have been made within two years from the adjournment of the legislature of each State, at its next session after the 12th day of March, A. D. 1860—and as to all lands surveyed or to be surveyed, thereafter, within two years from such adjournment, at the next session after notice by the Secretary of the Interior to the governor of the State, that the surveys have been completed and confirmed.

We can obtain a clearer view of the revised version by eliding all but the pertinent matter. The section (2490) will then read:

> The provisions of the Act * * * approved September 28, A. D. 1850, extend to the States of Minnesota and Oregon; *Provided,* That * * * the selections to be made from lands already surveyed in each of the States last named * * * shall have been made within two years from the adjournment of the legislature, etc., etc.

In other words, a promise of a grant is made if and when the States shall make the selections within the times prescribed.

It may be that when the selections have been made *as prescribed* and the patents issued, the rights of the two States relate back to the date of the granting Act, as against private parties claiming tracts of land under the general land laws. But the right of the Government to otherwise dispose of the lands by treaty before any steps whatever had been taken to carry into effect the promise of a grant seems unquestionable under all the authorities.

Aside from this, however, and as an independent matter, the fact is that the lands with which we are here concerned were not selected by the State within the times limited, nor for years thereafter. This is charged in the bill (Par. III, R. 8) and not denied in the answer (R. 62). Instead of a denial, a long explanation is given showing, in substance, that at a very early date the State agreed with the land department that the field notes of the Government surveys should govern, that the matter of preparing the selection lists was to be left to the Secretary, and that various plans for identifying the swamp lands were thereafter from time to time agreed upon and carried out. These allegations show that the State and the land department wholly ignored the special provisions of the Act of Extension, and proceeded in leisurely fashion according to the

usual practice as to swamp lands in States where the Act of 1850 prevailed without any modification.

Even if it be assumed that the Secretary of the Interior could waive, in behalf of the Government, the conditions contained in the Act of Extension, in so far as the lands of the United States were concerned, which seems to us doubtful, he certainly could not waive them in regard to lands secured to the Indians by solemn treaty stipulations. As we have shown, all the equities are with the Indians, and the State is without any equity at all; and it would perpetuate wrong and injustice to hold that any official of the United States could relax the strict requirements of the law to the prejudice of their superior and compelling equities. Indeed, the principles of relation of rights, estoppel, and waiver, are designed to preserve and protect equities and never to destroy them.

VI

The lands reserved to the Indians by the treaties of 1863–4 and 1867 are embraced by the express exception in section one of the act of extension

The language is:

> *Provided,* That the grant hereby made shall not include any lands which the Government of the United States may have reserved, sold, or disposed of (in pursuance of any law heretofore enacted) prior to the confirmation of title to be made under the authority of the said Act.

These lands were reserved by treaties made "in pursuance of" the Constitution of the United

States, which is declared to be the supreme "law" of the land. We do not customarily refer to the constitution as "enacted," but rather as "adopted." But "enact" has both a broad and a narrow meaning. According to Webster's Revised Unabridged Dictionary, it means:

> to decree; to establish by legal and authoritative act; to make into a law; especially, to perform the legislative act with reference to (a bill) which gives it the validity of law.

The other dictionaries are to the same effect. Now, the Constitution was established "by legal and authoritative act"; it was "made into a law," and was therefore a "law heretofore enacted." We speak indifferently of a *statute,* as enacted, adopted or passed. If the draftsman in this case had said "in pursuance of any law heretofore adopted," the Act would have described the Constitution in the terms ordinarily employed. To confine this exception to a *statute,* merely because of the word "enacted," would seem to be narrow and extreme. If a "statute" or "act of Congress" alone was intended, it would have been more natural to have used one of those terms.

That such was the general understanding is shown by the fact that while the treaties were in the making; during the long period intervening between that and the final cessions under the Nelson Act; and in the course of the prolonged negotiations for those cessions and the cessions provided for by the unratified treaties made by the North-

west Commission, no one, anywhere, at any time, ever expressed the idea that the State had any right to these swamp lands.

And again we insist that the equities of this cause, as well as the honor and good faith of the United States, call with overpowering force for a broad, rather than a narrow, construction.

VII

The State was estopped by her silence while the two treaties were in the making and while the cessions under the Nelson Act were in course of negotiation

If ever there was a situation in which common fairness required anyone claiming an interest in the subject matter to speak out and make known his claim, it was when the two treaties restoring to the Indians a portion of the lands ceded by them in 1855 were in the making, and when the Nelson Act providing for the sale of those same lands for the benefit of the Indians was pending in Congress; and again when the negotiations, prolonged for weeks within the very borders of Minnesota, were going on to procure the assent of the Indians to that Act. The State was an integral part of the United States, which was making those provisions, yet she stood by in absolute silence and saw the Indians give up other and very valuable lands for the lands restored; saw the United States give its solemn pledge that all the lands within the boundaries of the tracts so restored should be Indian reservation lands; and saw the Indians cede those

lands, consent to the ultimate dissolution of their ancient tribal government and enter upon new and untried experiments from which there could be no recoil, upon the solemn pledge of the United States that *all* the ceded lands, except those embraced in valid and subsisting "preemption and homestead entries," should be sold for their benefit.

It is useless to cite cases upon estoppel. By every principle of common fairness and justice upon which estoppel is founded, the State's right to claim the swamp lands was forever foreclosed.

It may not here be said that the principle of estoppel does not apply to the Sovereign. The United States was a sovereign; the Indian Tribe was recognized as so far sovereign that treaties and collective agreements might be made with it. The State, too, was a sovereign; and as between selfrespecting independent sovereigns, at least, an estoppel growing out of such conduct would be enforced in the last resort by war, if there were no tribunal competent to declare and enforce it.

VIII

Even if the State had acquired a right, inchoate or otherwise, that right was divested by the two treaties

By the Constitution the whole treaty-making power is vested in the President and the Senate. There are no express limitations upon it. It therefore extends at least to all matters which, in the intercourse of nations and peoples, have customarily been the subjects of negotiation and settlement

by treaty. Some limitations are, of course, necessarily implied. One power vested in the general Government can not be made the means of destroying others, or of destroying the powers reserved to the States, or of placing one State on an inequality with the others. But a treaty ceding landed property of a State does none of these things. It leaves the sovereignty and status of the State absolutely untouched. If in a war one of the States were invaded and a part of it held against all our efforts to recover it, could we not make peace by a treaty ceding to the enemy the territory so held together with all the public property and lands therein whether national or State? Is it conceivable that the Government established by the Constitution is so devoid of the usual sovereign powers that we must forever remain in a state of war for want of power to cede lands which an enemy so holds? If so, the efforts of the Convention to form a national government, adequate to the exigencies which every nation is likely to encounter sooner or later, came to a lame and impotent conclusion. There might, of course, be an implied moral obligation to compensate the State for any of her lands so ceded in order to obtain for the whole nation the advantages of peace, but that would not affect the *power* of the nation to cede them.

Let us put the case in a little different way. The United States is a union of States, and without the States our present constitutional Government

could not exist. The people, when they ratified and adopted the Constitution through the action of their State conventions, constituted the President and the Senate both their own agents and the agents of the States to deal with foreign nations and make treaties with them and with the Indians. In a very real sense, therefore, every State is a party to every treaty. Her senators are a part of the body whose action makes the treaty finally binding on the United States; and the Constitution itself declares that the judges in every State shall be bound by treaties, anything in the constitution or laws of such State to the contrary notwithstanding. (Art. 6, Sec. 2.) *Missouri* v. *Holland,* 252 U. S. 416, 430, and cases there cited.

But the treaty-making power in relation to Indians, as long as we chose to exercise it, was no whit less broad than as to foreign nations. The power being the same, those in whom it is vested are the judges of the exigency requiring its exercise. These treaties were of benefit to the whole nation, in the sense that they fulfilled, or were intended to fulfill, moral obligations of the nation to the Chippewa Bands. At the same time, they were made upon valuable considerations. They were of especial benefit to Minnesota, for by each treaty the Indians ceded lands wanted for new settlers; and it is no uncertain inference that the underlying motive was furnished in large part by the pressure of the people of that State for the opening of more lands to acquisition by them. To paraphrase and reverse in application a somewhat

cynical paragraph in the Attorney General's opinion (25 Opin. 626, 631):

> We do not think any such supposed rights of the *State* should stand in the way of the fulfillment of the Government's treaty obligations to the *Indians*. "Equivalent money could be paid to the 'State' if any is due for swamp lands in the former reservation."

IX

If the State originally acquired any rights, inchoate or otherwise, she had forfeited them as to these lands long before any patents issued by a constitutional amendment tying the hands of her legislature and irrevocably diverting the swamp lands and their proceeds from the express purpose for which they were given her by the United States. After the patents issued she again forfeited the lands by actually diverting all the proceeds of these very lands from that purpose

The constitutional amendment was adopted in 1881, and the pertinent part is quoted, *ante,* page 49. We know, of course, that this court, in a series of decisions, has held that private parties, at least, can not set up a forfeiture of the swamp lands for failure to fulfill the purpose of the grant; that the fulfillment of the purpose is not a trust that follows the land into the hands of private parties; that such fulfillment is a matter resting in the *good faith* of the State and its *judgment* as to whether there is any need of reclaiming the land; and that a failure to fulfill may be taken advantage of, if at all, only by the United States. There were also intimations that in such a case an Act of forfeiture by

Congress would be necessary. *Emigrant Co.* v. *County of Adams,* 100 U. S. 61, 69; *Mills County* v. *Railroad Cos.,* 107 U. S. 557–565–566; *Hagar* v. *Reclamation District,* 111 U. S. 701; *United States* v. *Louisiana,* 127 U. S. 182. But in this instance the State exercised no good faith, no discretion, and no judgment at all, and allowed neither her legislature nor any of her officers to do so. *By the constitutional amendment she arbitrarily repudiated any obligation at all to carry out the purpose in respect to any lands whatever received or to be received under the grant.* Manifestly, this is a totally different case from any heretofore decided; and it seems astonishing that, in the face of that repudiation, the land department should have patented to the State another acre of swamp lands anywhere within her borders, to say nothing of the Indian lands here in question.

If it be said that we are here asking a forfeiture without an Act of Congress declaring it, the answer is that the United States does not here sue to recover lands for her own benefit, but lands held in trust to be sold for the Indians who are the absolute equitable owners, and whose rights may and should be enforced without awaiting any action by Congress. The United States is already charged with a trust and her officers with a duty to carry it out under treaties, agreements, and Acts of Congress already in existence; and in order to perform that duty, they not only may but must do everything necessary to that end.

The State's claim that she has fulfilled the purpose of the gift *in substance* is wholly baseless. What she has done is to drain the lands by assessing benefits upon swamp and other State lands, as well as private lands; pay the State assessments on State lands out of general revenues; add the increased value of the benefits to the high minimum price of the lands; sell them to private parties and turn the proceeds, including the value of benefits by drainage, into the school and charitable funds, there to be held forever undiminished, etc. This was a compliance neither with the letter nor the spirit of the granting Act, and is no defense whatever.

X

Small reservations having an exceptional status

A. The three Pillager and Winnibigoshish Reservations

By the treaty of 1863–4 only six of the nine small reservations established by the treaty of 1855 were ceded. See Arts. 1 and 2 (12 Stat. 1249). The three others, namely, those at Leech Lake, Winnibigoshish Lake and Cass Lake, remained as before and their continued existence was recognized in both sections; and they were administered as distinct reservations ever after until the acceptance of the Nelson Act, and then were ceded for the first and only time. What we have called the enlarged Leech Lake Reservation was simply thrown around and between them, leaving them intact.

As to these, therefore, there can be no question. They never have been public lands in any sense,

and were never subject to the swamp-land grant, even under the Secretary's decisions heretofore dealt with. They occupied exactly the same status as the great area first ceded from the Red Lake Reservation by acceptance of the Nelson Act; and as to that cession the Secretary decided that no swamp lands therein ever passed to the State (22 L. D. 388), and she never got any there.

Through accident or ignorance, however, some parts of the three reservations were patented as swamp to the amount of over 700 acres. (Exhibit B, R. 56.)

B. The Mille Lac Reservation

The history of this reservation was merely alluded to in the general statement, *ante*, page 19. A large body of land lying south of Mille Lac (thousand lakes) was ceded by the Chippewa Tribe by the treaty of July 29, 1837 (7 Stat. 536, Art. I). The north line of the cession, as finally located, ran through the lake. The permanent villages of this band were around the south side of the lake, and it was probably not understood at the time that they would be left on the ceded lands. They had been there, however, for generations; and up to 1855 neither the government nor anybody else (except some lumbermen) had thought of disturbing them. The treaty of 1855 recognized their right to remain there and established for them a small reservation. The lands had, however, evidently been surveyed, at least to the extent of running the township lines,

for the treaty of 1855 designated the lands then reserved by fractional township descriptions. (Art. II.) Thus the legal establishment of this reservation antedated the swamp-land grant of 1860. So that these lands also were not subject to that grant.

The Mississippi Bands ceded this reservation by the treaty of 1863, with a condition thus expressed (Art. XII, 12 Stat. 1251):

> *Provided,* That, owing to the heretofore good conduct of the Mille Lac Indians, they shall not be compelled to remove so long as they shall not in any way interfere with or in any manner molest the persons or property of the whites.

The previous good conduct thus rewarded was their support of the agent in the previous year when Hole-in-the-Day and his three hundred warriors moved to attack the Agency at Crow Wing.

The land department construed the proviso as meaning a mere temporary occupancy, not interfering with the survey and opening of the lands to settlement, and accordingly the surveys were made and many entries allowed. As shown by later decisions of this court, that action was erroneous. *United States* v. *Thomas,* 151 U. S. 577; *United States* v. *Mille Lac Chippewas,* 229 U. S. 498. See also *Fellows* v. *Blacksmith,* 19 How. 366. These entries were later suspended, and that status continued until the reservation was again ceded under the Nelson Act, with a proviso in Section 6 except-

ing from its provisions "any tract upon which there is a subsisting, valid, preemptive or homestead entry," and directing that such entries proceed to patent. (The exception, of course, had nothing to do with swamp lands.) After the cession, the remainder of the Mille Lac lands were opened to entry and disposed of under the public land laws, contrary to the terms of the cession. Later, under an Enabling Act, the Indians sued the United States in the Court of Claims for the value of all the lands thus disposed of. The case came to this court, which decided that the then existing suspended entries were covered by the exception above quoted, but that the disposal of the remainder of the lands under the homestead laws was in violation of the Nelson Act cession, and the Government was liable for their value. The latter disposal had been made under directions of two resolutions of Congress, as to which this court, by Mr. Justice Van Devanter, said (the *Mille Lac case,* p. 509):

> That the wrongful disposal was in obedience to directions given in two resolutions of Congress does not make it any the less a violation of the trust. The resolutions, unlike the legislation sustained in *Cherokee Nation* v. *Hitchcock,* 187 U. S. 294, 307, and *Lone Wolf* v. *Hitchcock,* id. 553, 564, 568, were not adopted in the exercise of the administrative power of Congress over the property and affairs of dependent Indian wards, but were intended to assert, and did

> assert, an unqualified power of disposal over the lands as the absolute property of the Government.

That decision involved no swamp lands, but it is important here in its recognition of the trust created by the Nelson Act cession, and its emphatic assertion that even Congress, though it has plenary power to administer the lands of its Indian Wards *for their benefit,* can not give them away to white men.

For the same reasons, of course, Congress could not give them to a State, and much less could the Secretary of the Interior do that. So that this decision is authority for the proposition that no swamp lands retained in Indian reservations from a time prior to the Act of Extension could pass to the State. Nevertheless, and apparently by a mere error, over 700 acres of these Mille Lac lands were patented to the State on May 13, 1871. (Exhibit *C* to Complaint, R. 57.)

Discovering the mistake, the Secretary, in September of the same year, formally demanded the lands back from the Governor. The demand was not complied with, and was repeated July 15, 1915. (R. 8 and 62.)

Notwithstanding the long delay these lands or their value should now be restored to the Indians. As we have shown, neither limitation nor laches applies; and, in any event, the only remedy possible was an original suit, and the Government may

well be excused for declining to trouble this court in that way for only 700 acres of swamp land.

XI

The State should account for all that she has received or is to receive for lands sold by her, with interest; for the price of any minerals removed, if any, from lands sold with reservation of mineral rights; and for the price of the lumber or timber sold from lands still retained or sold after removal of the timber, with interest

In the bill the Government prays for the full *value* of the lands sold by the State and of the timber cut and removed. After fuller knowledge and a further examination of the statutes under which the sales were made by the State, it now seems to us that the ends of substantial justice will be subserved by an accounting on the principle above stated, especially in view of the high prices that must have been realized if those statutes were followed in making the sales. This will much simplify the accounting, if one is directed.

The principle itself was announced and applied by this court in *Southern Pacific R. Co.* v. *United States* (No. 1), 200 U. S. 341, 352–3. There it was said:

> Erroneously and by mistake the officers of the Government executed patents to the railroad company conveying the legal title to the lands. The railroad company accepted such title and subsequently conveyed the lands to parties who dealt with it in good faith. When by mistake a tract of land is

> erroneously conveyed, so that the vendee has obtained a title which does not belong to him, and before the mistake is discovered the vendee conveys to a third party purchasing in good faith, the original owner is not limited to a suit to cancel the conveyances and re-establish in himself the title, but he may recover of his vendee the value of the land up to at least the sum received on the sale, and thus confirm the title of the innocent purchaser. The conveyance to the innocent purchaser is equivalent to a conversion of personal property. Irrespective, therefore, of the act of Congress the Government had the right, when it found that these lands had been erroneously patented to the railroad company and by it sold to persons who dealt with it in good faith, to sue the railroad company and recover the value of the lands so wrongfully received and subsequently conveyed.

The same principle is applied in cases where title to public lands is obtained by fraud and then passed to an innocent purchaser, or where such lands are still held by the fraudulent patentee, and a suit to cancel the patent and recover them is barred by limitation. The Government recovers the value of the lands, or, at its election, the price for which they were sold. *United States* v. *Whited & Wheless,* 246 U. S. 552, 563; *United States* v. *Koleno,* 226 Fed. 180; *Bistline* v. *United States,* 229 Fed. 546; *Union Coal & Coke Co.* v. *United States,* 247 Fed. 106.

The fact that the United States was bound by the Nelson Act to realize for the Indians only $1.25 per acre for the swamp lands (which would have been classed as "agricultural lands" if the State had not intermeddled) in no wise limits the recovery as against her. She can retain nothing that has come to her as a result of intermeddling with property to which she had no right whatever.

The same principle would control the accounting for timber cut and sold by her from swamp lands which she still retains. And if it should appear, when her promised disclosures are made, that she sold timber from some of the lands and afterwards sold the lands themselves, she must of course account for what she received for both timber and land. As the Government, up to the filing of the answer, was ignorant of the reservation of minerals to the State, it did not specifically pray for the value of minerals removed, and the State made no disclosures regarding them. But if any have been mined and removed she should account therefor on the same principle.

We assume that a decree on these principles will completely extinguish the rights of the United States in the land and timber sold. The fact that the lands have been sold under long-time contracts, the price to be paid in installments, some of which are not yet due the State, will present no real difficulty. The decree will in effect confirm the *sale,* whether a State patent has issued or not. The

price of the lands being fixed at the time of sale, the principal amount to be recovered will be apparent.

The State is liable for interest on the selling price of the lands from the date of each sale. Under the contracts of sale, she herself receives interest. (R. 72.) The money received in cash and on the installments as they fall due is invested in bonds which return interest. (R. 73.) As she has received interest on moneys which belong to the trust and not to her, she must pay interest, on the principle above stated.

In this country, interest is the natural growth, or incident, of money, and bears the same relation to it that rent does to land. *Woerz* v. *Shumacher,* 161 N. Y. 534, 536; *Spalding* v. *Mason,* 161 U. S. 375, 395; *Stewart* v. *Barnes,* 153 U. S. 456, 462; 22 Cyc. 1473.

This case is not like those in which the Government, suing in its own behalf, under Acts of Congress forfeiting land grants, is denied interest because the acts of forfeiture and cognate legislation show that interest was not to be exacted (*Southern Pacific R. R. Co.* v. *United States,* 228 U. S. 618); or like those in which the Government is sued under enabling Acts which do not provide for interest or show that it was not contemplated.

Under her contracts with purchasers and on the funds invested in bonds the State receives 4 per cent, but that is not the true criterion. Under the Nelson Act (sec. 7) the Indians are to receive 5 per cent on the trust fund placed to their credit in the

Treasury. But the true criterion is, we think, the legal rate which has prevailed in the State during the period the moneys have been withheld.

CONCLUSION

If the issues now submitted shall be decided in favor of the United States, we suggest that the State be required to make the promised disclosures before a Master or Auditor as to the lands sold by her and the lands still retained; and, as to the lands sold, the dates of sale, respectively, the price, the terms of sale, etc.; whether any minerals have been removed from lands sold with reservation of mineral rights, and, if any have been removed, the quantities and the prices realized therefor; and the quantities of timber removed from lands still retained by the State, or sold after such removal; the dates of removal and the prices realized; together with such other particulars as may be necessary to a determination of the amounts now due the United States; with leave to the United States to controvert or supplement such disclosures by any available evidence, in case it deems proper to do so.

WILLIAM D. MITCHELL,
Solicitor General.

B. M. PARMENTER,
Assistant Attorney General.

W. W. DYAR,
Special Assistant to the Attorney General.

SEPTEMBER, 1925.

○

In the Supreme Court of the United States

OCTOBER TERM, 1925

No. 17, ORIGINAL

THE UNITED STATES OF AMERICA, PLAINTIFF

v.

THE STATE OF MINNESOTA

STIPULATION

After the bill of complaint and answer herein had been served and filed, the parties agreed that the cause should be submitted to the court upon stipulated facts. The negotiations as to what should be included therein were carried on largely by correspondence between counsel. After the various items of evidence to be included in the stipulation had thus been agreed upon, it was left to the Department of Justice to arrange the contents of the stipulation and to prepare the record herein and deliver it to the clerk for printing. In so doing, the Department of Justice accidentally omitted therefrom the following item:

> It is hereby stipulated that the facts recited in the answer of the State of Minnesota, under parts numbered III and IV (which said part IV begins at the top of page 66 of the printed transcript of record),

and in Exhibits A, B, and C are true, and further that the State of Minnesota has, under laws enacted by its legislature for that purpose, sold the major portion of the lands so patented to it and that in the handling of said lands, involving appraisals, sales, collection of principal and interest and the keeping of records, the state has expended many thousands of dollars.

That said lands have been and are sold on long time contracts, a copy of one thereof being hereto attached and made a part hereof, marked Exhibit B. Most of the contracts heretofore entered into have a number of years yet to run. Under these contracts purchasers are required to make annual payments, and when full payment is made, patent from the state issues. The proceeds have been and will continue to be placed in the trust funds of the state pursuant to the aforesaid provisions of section 2 of Article 8 of the state constitution. These provisions require that such funds forever remain inviolate and undiminished, authority being given thereby to invest the same in certain specified securities. In the exercise of this authority, the legislature has directed that said funds be loaned on the bonds of the United States, the state of Minnesota, and of the counties, towns, cities, villages, and school districts thereof. This direction was first made many years ago, since which time the law has been in minor details modified. The law as it now stands is found in Session Laws of Minnesota for

1921, chapter 516, a copy of which is hereto attached and made a part hereof, marked Exhibit C. Proceeding under this legislative direction and laws enacted providing the necessary machinery for loaning the funds, the bulk of said funds are kept invested in the bonds of said political subdivisions, and principally in the bonds of school districts for the erection and equipment of school houses. Of said funds, aggregating about $8,000,000, approximately $6,000,000 are now invested in the bonds of the municipalities of the state.

It is therefore stipulated and agreed that the foregoing matter may be included in the stipulation of evidence heretofore made between the parties hereto and included in the printed transcript of record herein; and application is hereby made to the court for an order allowing the filing of this stipulation and allowing the amendment of the record herein in the particulars hereinbefore set forth.

Dated January 5, 1926.

THE UNITED STATES OF AMERICA,
By WILLIAM D. MITCHELL,
Solicitor General.

THE STATE OF MINNESOTA,
By CLIFFORD L. HILTON,
Attorney General.

G. A. YOUNGQUIST,
Assistant Attorney General.

MONTREVILLE J. BROWN.

○

In the Supreme Court of the United States

OCTOBER TERM, 1925

No. 17, ORIGINAL

UNITED STATES OF AMERICA, COMPLAINANT

v.

STATE OF MINNESOTA

MOTION FOR THE ENTRY OF DECREE

Now comes the Solicitor General in behalf of the United States and in behalf of the State of Minnesota and moves the court that a decree be entered in accordance with the form submitted herewith.

(Signed) WILLIAM D. MITCHELL,
Solicitor General.

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In the Supreme Court of the United States

OCTOBER TERM, 1925

No. 17, ORIGINAL

UNITED STATES OF AMERICA, COMPLAINANT

v.

STATE OF MINNESOTA

STIPULATION SUBMITTING FORM OF DECREE

Now come the parties and submit the accompanying form of decree for entry by the Court.

It is stipulated that the area of 706 acres described as within the Leech Lake, Winnibigoshish, and Cass Lake Reservations, as to which the court found the United States entitled to a decree canceling the patents, or to a judgment for the value of such lands as have been sold, may be reduced 88.80 acres, for the reason that no patents were issued to the state for the two tracts described in the next to the last paragraph of the form of decree herewith.

(Sgd.) WILLIAM D. MITCHELL,
Solicitor General.

(Sgd.) CLIFFORD L. HILTON,
Attorney General of Minnesota.

(Sgd.) G. A. YOUNGQUIST,
Assistant Attorney General of Minnesota.

(Sgd.) MONTREVILLE J. BROWN,
Solicitors for Defendant.

In the Supreme Court of the United States

OCTOBER TERM, 1925

No. 17, ORIGINAL

UNITED STATES OF AMERICA, COMPLAINANT

v.

STATE OF MINNESOTA

FINAL DECREE

This cause coming on to be heard upon the submission by the parties of a form of decree herein, and for the purpose of carrying into effect the conclusions of the court as stated in its opinion herein (March 1, 1926),

IT IS ORDERED, ADJUDGED, AND DECREED that the patents issued by the United States be canceled as to the following described lands patented to the State of Minnesota included within the 706 acres in the Leech Lake, Winnibigoshish, and Cass Lake Reservations described in said opinion.

	Acres
Township 146 N., R. 26 W.:	
Lot 3, Sec. 4	38
Lot 4, Sec. 4	37.60
SW¼ NE¼ Sec. 4	40
SE¼ NW¼ Sec. 4	40
NE¼ SE¼ Sec. 4	40
NW¼ SE¼ Sec. 4	40
Township 142 N., R. 28 W.:	
SE¼ NE¼ Sec. 21	40
SW¼ NW¼ Sec. 22	40

Township 147 N., R. 29 W.:	Acres
Lot 10, Sec. 24	37.10
Lot 11, Sec. 24	43.05
Lot 1, Sec. 25	60.80
	456.55

It appearing to the court that the State has sold the said lands hereinafter described, it is further ORDERED, ADJUDGED, AND DECREED that the United States have and recover the value of said lands and timber thereon, in the sum of $250.81 as follows:

Lot 2, Sec. 6, T. 143 N., R. 27 W.: 43.20 acres at $1.25 with 10 M feet Norway Pine at $4.00 per M	$94.00
SE¼ NW¼ Sec. 21, T. 142 N., R. 28 W.: 40 acres with 2 M feet white pine at $5.00 per M	60.00
NE¼ NE¼ Sec. 22, T. 142 N., R. 28 W.: 40 acres at $1.25	50.00
Lot 1, Sec. 23, T. 142 N., R. 28 W.: 37.45 acres at $1.25	46.81
Total 160.65 acres, of the value of	250.81

It appearing to the court that no patent was issued to the SE¼ of the NW¼ of Sec. 22, T. 142 N., R. 28 W., containing 40 acres, and to Lot 5 of Sec. 2, T. 141 N., R. 30 W., containing 48.80 acres, the area of 706 acres is reduced accordingly.

As to the remaining 151,418.18 acres described in the complaint, it is ORDERED, ADJUDGED, AND DECREED that the bill be, and it is hereby, dismissed.

O

Office Supreme Court,
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DEC 24 192
WM. R. STANSB
C

No. 17, Original

In the Supreme Court of the United States

OCTOBER TERM, 1925

THE UNITED STATES OF AMERICA, PLAINTIFF

v.

THE STATE OF MINNESOTA

BRIEF FOR MINNESOTA

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In the Supreme Court of the United States

OCTOBER TERM, 1925

No. 17, Original

THE UNITED STATES OF AMERICA, PLAINTIFF

v.

THE STATE OF MINNESOTA

BRIEF FOR MINNESOTA

PRELIMINARY STATEMENT

By the Treaty of 1855 (10 Stat. 1169), the Mississippi, Pillager and Lake Winnibigoshish bands of Chippewa Indians ceded, sold and conveyed to the United States all their right, title and interest in and to lands then owned and claimed by them in the Territory of Minnesota included within boundaries therein set out. In consideration of and in full compensation for the cession made, the United States agreed and stipulated to make payments of money to and to expend money and make provision in behalf of the Indians, all as set forth in the treaty. The lands so ceded are shown in blue on the map designated "Minnesota 1"

made a part of the record. The area ceded bears the number 357. By virtue of the treaty, title to these lands, save eight small tracts reserved for the future homes of the Indians, which are shown on the map aforesaid in green and pink, passed to the United States free of any and all Indian rights. Such lands then became in 1855, public lands of the United States in the absolute sense.

The validity of this treaty was recognized by this Court as late as 1914, Johnson v. Gearlds, 234 U. S. 422, 34 Sup. Ct. 794, 58 L. ed. 1383.

Minnesota was admitted as a state in 1858 (Act of May 11, 1858, Chapter 31, 11 Stat. 285).

The status of the ceded lands remained unchanged until 1860. Prior thereto, and in 1850, Congress made a grant of all public lands swamp in character to the states (9 Stat. 519). In 1860 Congress extended the Act of 1850 to include the states of Oregon and Minnesota (12 Stat. 3). The Act of 1850 was so extended with modifications. These will be considered during the course of the argument. The Act of 1850 contained the words: "* * * The whole of those swamp and overflowed lands * * * shall be, and the same are hereby, granted to said state"; and the Act of 1860, these words: "* * * the grant hereby made * * *." By virtue of the use of these words, these grants have always been construed as grants in praesenti. Whether the grant to Minnesota was lost through rescission, forfeiture or something else raises questions for argument. However this may be, it must be conceded, it seems to us, that upon the passage of the Act of 1860, any title the United States may have had in and to the lands ceded to it by the Treaty of 1855, became and was thereafter subject to the grant of swamp lands to Minnesota. The ceded lands were public lands of the United States in 1860. Upon the passage of the Act of 1860, so much of these lands as were swamp in character passed from the United States to Minnesota, identification

and patenting being required to perfect title in the state.

Such was the situation in 1863 when the treaty of that year was concluded with the aforesaid bands of Indians and ratified and proclaimed (12 Stat. 1249). By the terms of this treaty, the Indians ceded five of the small reservations created under the Treaty of 1855 shown in pink on the map "Minnesota 1" and numbered 453, 456, 455 (includes two reservations) and 457. The treaty set apart for the future homes of the Indians lands embraced within certain boundaries. The area was situated in the north central part of Minnesota, is shown in pink on the map "Minnesota 2" and bears the number 507. The three reservations created in the third clause of the second article of the Treaty of 1855 for the Pillager and Lake Winnibigoshish bands, shown on the map in mauve and numbered 358, 359 and 360, were apparently left untouched. The area so set apart was enlarged by the Treaty of 1864 (13 Stat. 693) to include a strip of land to the northwest, shown on "Minnesota 2" in pink, and also numbered 507.

Under the Treaty of 1867 (16 Stat. 719), the Indians ceded all of the lands reserved to them under the Treaties of 1863 and 1864 to the United States, reserving a tract therein described by metes and bounds and shown on "Minnesota 2" in green, and bearing the number 508. In consideration of the cession,

> "In order to provide a suitable farming region for the said bands, there is hereby set apart for their use a tract of land, to be located, etc."

The first of these two reservations became known as the Enlarged Leech Lake Reservation, and the second as the White Earth Reservation. The White Earth Reservation is shown on "Minnesota 2" in blue, and bears the number 509. Two large maps of these reservations will be found in the record.

The swamp lands here involved are those situated within the boundaries of the Enlarged Leech Lake Reservation and the White Earth Reservation. They are shown in pink on the two

large maps of these reservations just referred to.

These reservations, as fixed by the Treaty of 1867, except for some additions made by executive orders dated October 29, 1873, November 4, 1873 and May 26, 1874, remained unchanged until the cession made pursuant to the Act of 1889, the Nelson Act (25 Stat. 642). The additions made in 1873 and 1874 are shown on "Minnesota 2", the same constituting the small tracts included within yellow boundary lines. They bear the numbers 549, 550, 567 and 568. Under the Nelson Act, the Indians ceded all of the Enlarged Leech Lake Reservation, together with the small Pillager and Winnibigoshish Reservations enclosed within its boundaries, and together with the additions made by executive orders; all of the Mille Lacs Reservation; four townships off the east side of the White Earth Reservation; about 2,200,000 acres of the Red Lake Reservation; and some small reservations in the northern part of the state. The ceded tracts are shown on the map "Minnesota (northern portion)": The Enlarged Leech Lake Reservation in mauve, numbered 710, the White Earth in green, numbered 708, the Red Lake in blue, numbered 706.

The Nelson Act provided:

> "For a complete cession and relinquishment in writing *of all their title and interest in and to all** the reservations of said Indians in the State of Minnesota."

The cession was made to the United States in trust. The lands ceded were to be sold for the exclusive benefit of the Indians. The act provided that all moneys accruing from the disposition of the land should be placed in the treasury of the United States to the credit of all the Chippewa Indians in the State of Minnesota as a permanent fund, the fund to draw interest at the rate of five per cent per annum for a period of fifty years, the

*Italics where appearing are ours.

interest to be paid annually to and for the benefit of the Indians, and the permanent fund to be disbursed among them at the end of the fifty-year period.

The act provided for a survey of all the lands and an appraisal of the timber lands, and a sale thereof in accordance with its provisions.

The lands were surveyed and the surveys disclosed numerous tracts of land swamp in character. Following the surveys, Minnesota made and prosecuted before the Commissioner of the General Land Office, and thereafter before the Secretary of the Interior, claims to these swamp lands, basing her claims on the Act of 1860 extending the Swamp Land Act of 1850 to her. As a result of these proceedings, the Secretary of the Interior, recognizing the claims of Minnesota as valid, patented the bulk of the lands to Minnesota, the first patent being issued in 1900 and the last in 1912. The lands so patented comprised in all approximately 152,124.18 acres.

Following the patenting of the lands to Minnesota, she proceeded under her constitution and laws enacted pursuant thereto. to sell these lands, including timber lands, to private parties. The bulk of them have been so disposed of, and were so disposed of prior to the institution of this suit.

On the claim that the Secretary of the Interior erroneously patented the lands to Minnesota, the Government, twenty-three years after the issuance of the first patent and eleven years after the issuance of the last patent, instituted this suit. The Government seeks to recover from Minnesota the value of the lands sold by her and a cancellation of the patents covering the lands not yet disposed of.

The foregoing is not submitted as a complete statement of facts involved and of importance here, but for the purpose of presenting in a brief way the history of the situation with particular reference to the status of the lands in question at various times from the Treaty of 1855 to the commencement of the suit.

This, we believe, will aid to a better understanding of the points upon which we rely for a favorable decision herein. Other facts of equal importance will be considered during the course of the argument.

MINNESOTA'S CONTENTIONS

1. The suit is one against the State of Minnesota by citizens thereof; and as a consequence the court is without jurisdiction to entertain the same.

2. The suit, if viewed as one by the United States against Minnesota to cancel patents, is barred by the statute of limitations.

3. The swamp land grant was one in praesenti; and upon perfection of title, title relates back to the date of the grant.

4. The character of the grant with respect to its application to Minnesota was not changed by the Act of 1860.

5. The act as extended to Minnesota was administered, and with particular reference to the lands in question, in strict accord with the construction of many years' standing placed thereon by those charged with the duty of administering the same.

6. The construction placed on the grant by the Interior Department is in accord with the true intent and meaning of the act; if doubt exists as to this, the grant having been consistently administered in accordance therewith, such construction should be accepted by the court.

7. The Treaties of 1863, 1864 and 1867 did not operate to divest Minnesota of title to the lands in question.

8. The lands in question did not pass to the United States as a result of cessions made pursuant to the Nelson Act (25 Stat. 642) for disposition for the benefit of the Indians or otherwise.

Contentions with respect to the diversion by Minnesota of proceeds derived from the sale of swamp lands, estoppel and equities will also be made and argued.

JURISDICTION

This suit is one against the State of Minnesota by citizens thereof; and as a consequence, the Court is without jurisdiction to entertain the same.

The lands involved here have all been patented to the state. The state has sold a large portion of them to private parties who are holding them under either patent or contract for patent from the state. With respect to the lands sold by the state, plaintiff seeks to recover the value thereof. As to the unsold lands, a decree canceling the patents is sought.

(1) *Suit for Money Judgment.*

This suit cannot be prosecuted as one to cancel patents covering lands sold by Minnesota for the reason that the state's grantees are not parties to the litigation. Had they been made parties, the court would for that reason be without jurisdiction. This is conceded by plaintiff at page 2 of its brief, where the case of California vs. Southern Pac. Ry. Co., 157 U. S. 229, 15 Sup. Ct. 591, 39 L. ed. 683, is cited. So plaintiff seeks to recover the value of these lands from Minnesota. For whom is this recovery sought? The United States? No. Assuming a recovery, the United States will not be the gainer to any extent whatever. Every dollar will go to the Indians; they, and they alone, will profit in the event of a recovery. This is conceded time and time again in plaintiff's brief; and must necessarily be conceded in view of the provisions of the Nelson Act. The United States is immune from suit at the instance of the Indians; it has assumed no responsibility as in the case of Minnesota vs. Hitchcock, 185 U. S. 373, 22 Sup. Ct. 650, 46 L. ed. 954. Its situation will not be changed in the slightest, no matter how the litigation is decided. The suit is one for the sole and exclusive benefit of the Indians. The United States is a nominal party—the conduit through which the litigation is being conducted. The Indians are the real, and the only real, parties in

interest; and the suit is one by them against Minnesota. When the bill was filed, ninety-eight per cent of these Indians were citizens of Minnesota (R. p. 458); and now they are all citizens thereof (Act of June 2, 1924, C. 233, 43 Stat.). The court lacks jurisdiction to entertain the suit, for it is without jurisdiction to entertain a suit by persons against the state of which they are citizens.

> *Hans* v. *Louisiana*, 134 U. S. 1, 10 Sup. Ct. 504, 33 L. ed. 849;
> *Hollingsworth* v. *Virginia*, 3 Dall. 378, 1 L. ed. 644;
> *Ex Parte Madrazzo*, 7 Pet. 625, 8 L. ed. 808;
> *Chandler* v. *Dix*, 194 U. S. 590, 24 Sup. Ct. 766, 48 L. ed. 1129;
> *Lankford* v. *Platte Iron Works*, 235 U. S. 461, 35 Sup. Ct. 173, 59 L. ed. 316;
> *American Water Softener Co.* v. *Lankford*, 235 U. S. 496, 35 Sup. Ct. 184, 59 L. ed. 329.

It is true that the United States has brought many suits in its own name for and on behalf of Indians, in some as guardian, and in others as trustee. And the courts have taken jurisdiction of such suits. Some of them are cited on page 54 of plaintiff's brief. In none of the cases so cited, and in no case that we have been able to find, has the United States sued a state for the benefit of Indians, to say nothing of a suit for the sole and exclusive benefit of Indians who happen to be citizens of the state sued. The court approached the question in Minnesota vs. Hitchcock, supra, where this was said:

> "If whether a suit is one against a state is to be determined, not by the fact of the party named as defendant on the record, but by the result of the judgment or decree which may be entered, the same rule must apply to the United States. The question whether the United States is a party to a controversy is not determined by the merely nominal party on the record, but by the question of the

effect of the judgment or decree which can be entered.

"But, it may be said, that the United States has no substantial interest in the lands; that it holds the legal title under a contract with the Indians, and in trust for their benefit. This is undoubtedly true, and if the case stood alone upon the construction of the treaty between the United States and the Indians, there might be substantial force in this suggestion. But Congress has, for the Government, assumed a personal responsibility. On March 2, 1901, it passed the following act: * * *." (P. 387, 185 U. S.)

(2) *Suit to Cancel Patents.*

The character of the suit is the same as to lands not yet sold by Minnesota. Plaintiff seeks to recover these lands. If they are recovered, plaintiff will be required to turn them into cash for the Indians. They are the only ones who will profit by a cancellation of the patents. The suit, in so far as it is one to cancel the patents, is one by the Indians against Minnesota.

With respect to the suit, viewed both as one to recover damages and one to cancel patents, the United States cannot sue any more than a state can sue another state for and on behalf of its citizens where such suing state is not interested in the litigation in its proprietary capacity.

New Hampshire v. Louisiana; New York v. Louisiana, 108 U. S. 76, 2 Sup. Ct. 176, 27 L. ed. 656;

Louisiana v. *Texas,* 176 U. S. 1, 20 Sup. Ct. 251, 44 L. ed. 347;

North Dakota v. *Minnesota,* 263 U. S. 365, 44 Sup. Ct. 138, 68 L. ed. 365.

(3) *Effect of Statute of Limitations on Situation.*

Where a controversy exists capable of judicial solution between the United States and a state, the United States may invoke the original jurisdiction of this court. United States v. Texas, 143 U. S. 644. Here the United States contends that cer-

tain of her officers patented certain lands to Minnesota without authority of law; Minnesota contends that the patents were legally issued. If this be the real controversy, the jurisdiction of the court is limited to a consideration thereof; it extends no further. The claims of the third parties, the Indians, cannot be considered except as a determination thereof may be necessary to an adjustment of the dispute between the United States and Minnesota, for, as we have pointed out, the court cannot take jurisdictional cognizance thereof; if the suit be one to adjust Indian rights, it is one by them against the state of which they are citizens and the court is without jurisdiction. Treating the suit, then, as one between the United States and Minnesota for an adjudication of the dispute between them, it is barred by the statute of limitations. It is one to cancel patents issued by the United States to Minnesota, and was not commenced within six years following the issuance thereof. Act of March 3, 1891 (26 Stat. 1096, 1097, ch. 561, § 8).

We have considered the cases of Northern Pacific Railway Co. v. United States, 227 U. S. 355, 33 Sup. Ct. 368, 57 L. ed. 544, and La Roque v. United States, 239 U. S. 62, 36 Sup. Ct. 22, 60 L. ed. 147, cited in plaintiff's brief; but we fail to see that these cases in any way militate against the contention we here make.

The force and effect given to the statute of limitations, Act of March 3, 1891, by the court in the case of Cramer v. United States, 261 U. S. 219, 43 Sup. Ct. 342, 67 L. ed. 622, clearly demonstrates the nonsustainability of this litigation. In this case the court, speaking through Mr. Justice Sutherland, said:

> "The suit is not barred by the Act of March 3, 1891, chap. 561, § 8, 26 Stat. at L. 1095, 1099, limiting the time within which suits may be brought by the United States to annul patents.
>
> "The object of that statute is to extinguish any right the *Government* may have in the land which is the subject

> of the patent, not to foreclose claims of third parties. Here the purpose of the annulment was not to establish the right of the United States to the lands, but to remove a cloud upon the possessory rights of its wards. * * *." (P. 233, 261 U. S.).

Here cancellation of patents to certain of the lands in question is sought. Suit was not brought until the statute had run. The running of the statute extinguished such right, title and interest as the Government may have had in and to the lands patented. If the suit were simply one to reinvest the United States with title, it would be barred. The right, title and interest of the United States in and to these lands having expired, the only possible interest therein which can be here involved, as between the United States and the Indians, is that of the Indians. The suit is of necessity one solely for the protection of the interest, or purported interest, of these Indians; it cannot be for the protection of any right, title or interest of the United States, for the United States now has no right, title or interest; the running of the statute extinguished any and all claims the United States may have had in and to the lands. The Indians are now the only parties, as between them and the United States, with any possible interest in the lands. They are the only ones interested as plaintiffs in this litigation; and the litigation is being prosecuted solely and exclusively for their benefit. On no other theory can the statute of limitations be avoided; and on this theory the litigation must fail for want of jurisdiction in the court.

Assuming for the sake of argument that the suit is maintainable by the United States, the Minnesota statute of limitations applies, the suit being one against Minnesota for the sole benefit of the Indians.

Curtner v. United States, 149 U. S. 662.

This statute would bar the suit as to all lands patented to Minnesota fifteen years prior to the commencement of such

suit, for the statute provides that no action for the recovery of real estate or the possession thereof shall be maintained unless it appears that the plaintiff was seized or possessed of the premises in question within fifteen years before the beginning of the action.

General Statutes of Minnesota 1923, Section 9187.

MERITS

I.

The swamp land grant was one in praesenti; and upon perfection of title, title relates back to the date of the grant.

In plaintiff's brief it is stated that the decisions of this court with respect to the character of the swamp land grant are hard to reconcile. We encounter no great difficulty in harmonizing the decisions. The court characterized the grant in the case of Wright vs. Roseberry, 121 U. S. 488, 7 Sup. Ct. 985, 30 L. ed. 1039, and since then has consistently ruled, in harmony therewith, the grant to be one in praesenti. In the Wright vs. Roseberry case (hereinafter referred to as the Roseberry case) the court held that a state did not acquire perfect title until identification. By reason of later decisions, the rule now is that perfect title does not vest until issuance of patent. We attach no importance to this. It is immaterial whether perfect title vests upon identification or upon issuance of patent; for under all the decisions the rule is that upon perfection of title, whether upon identification or issuance of patent, the title so perfected relates back to the date of the grant.

The Roseberry case involved the Act of 1850 and its application to certain lands in California. Patents to these lands were issued to settlers under the Preemption Laws of 1866, 1867, 1868 and 1871, upon declaratory statements made in 1864. Following this and in 1872, the lands were identified as swamp in character. A dispute arose between those claiming under such

patents and those claiming under the transfers from California. The lands had never been certified or patented to the state as swamp. The decision of the court was that, upon proof that the lands were swamp as of the date of the Act of 1850, there should be judgment in favor of those claiming under the state. The grant of 1850 was held to be one in praesenti; and that upon identification title becomes perfect as of the date of the grant.

The court, speaking with reference to the character of the grant, said:

> "The language of the first section of the act indicates a grant in praesenti to each state of lands within its limits of the character described. Its words 'shall be and are hereby granted' import an immediate transfer of interest, not a promise of a transfer in the future. It was only when the other sections of the act were read that a doubt was raised as to the immediate operation of the act. One the one hand, it was contended that these sections postponed the vesting of title in the state until the lands granted were identified, and a patent of the United States for them was issued. On the other hand, it was insisted that effect must be given to the clear words of the granting clause of the first section, which, ex vi termini, import the passing of a present interest, and that, in consistency with them, the other provisions of the act should be regarded as simply providing the mode of identifying the lands, and furnishing documentary evidence of their identification, and not as a limitation upon vesting the right to them in the state, as this would make the investiture dependent upon the request of the governor, and not upon the act of Congress. It was also urged that identification of the lands could be made in a majority of instances from simple examination of them, and that no policy of the government could be advanced by postponing the passing of the title until the identification by the Secretary of the Interior; and that the clause providing, that upon the issue of the patent the fee should

pass, was merely declaratory of the nature of the title, the patent operating merely by way of further assurance. (P. 496-97, U. S. 121).

"The question thus brought to the attention of the department, under whose supervision the act was to be carried into effect, was one upon which men might very well differ, but after its solution had been reached, and the conclusion was acted upon, necessarily affecting titles to immense tracts of land, there should be the clearest evidence of error, as well as the strongest reasons of policy and justice controlling, before a departure from it should be sanctioned." (P. 497, 121 U. S.)

* * *

"It is plain that the difficulty of identifying the swamp and overflow lands could not defeat or impair the effect of the granting clause, by whomsoever such identification was required to be made. *When identified, the title would become perfect as of the date of the act. The patent would be evidence of such identification and declaratory of the title conveyed.* It would establish definitely the extent and boundaries of the swamp and overflowed lands in any townsip, and thus render it unnecessary to resort to oral evidence on that subject. It would settle what otherwise might always be a mooted point, whether the greater part of any legal subdivision was so wet and unfit for cultivation as to carry the whole subdivision into the list. The determination of the secretary upon these matters, as shown by the patent, would be conclusive as against any collateral attacks, he being the officer to whose supervision and control the matter is especially confided. The patent would thus be an invaluable muniment of title and a source of quiet and peace to its possessor. But the right of the state under the first section would not be enlarged by the action of the secretary, except as to land, not swamp or overflowed, contained in a legal subdivision, as mentioned in the fourth section; nor could it be defeated, in regard to the swamp and overflowed lands, by his refusal to have the required list made out, or the patent issued, notwithstanding the delays and em-

barrassments which might ensue." (P. 500, 121 U. S.)

* * *

"The result of these decisions is, that the grant of 1850 is one in praesenti, passing the title to the lands as of its date, but requiring identification of the lands to render the title perfect; * * *." (P. 509, 121 U. S.)

The conclusion of the court in this case was based largely on prior decisions and influenced to some extent, no doubt, by the interpretation which had always been placed on the act by the Secretary of the Interior. The decisions of the courts and the rulings of the Interior Department were exhaustively reviewed. All of them were shown to be supportive of the conclusion reached; there had been unanimity of opinion on the subject.

Some of the cases considered were:

R. R. Co. vs. Smith, 76 U. S.)9 Wall.) 95, 19 L. ed. 599;
French vs. Fyan, 93 U. S. 169, 23 L. ed. 812;
Rice vs. Sioux City & St. Paul R. R. Co., 110 U. S. 695, 4 Sup. Ct. 177, 28 L. ed. 289;
Martin vs. Marks, 97 U. S. 345, 24 L. ed. 940;
Fletcher vs. Pool, 20 Ark. 100;
Branch vs. Mitchell, 24 Ark. 431;
Ringo's Exr. vs. Rotan's Heirs, 29 Ark. 56;
Owens vs. Jackson, 9 *Cal. 322;*
Allison vs. Halfacre, 11 Iowa 450;
Clarkson vs. Buchanan, 53 Mo. 563;
Gaston vs. Stott, 5 Ore. 48;
Keller vs. Brickey, 78 Ill. 133.

Much importance, of course, was attached to the use of the words "are hereby granted" in the Act of 1850. With respect thereto the court said:

"The language of the first section of the Act indicates a grant in praesenti to each State of lands within its limits of the character described. *Its words 'shall be and are*

hereby granted' import an immediate transfer of interest, not a promise of a transfer in the future." (P. 496, 121 U. S.)

* * *

"The grants by the United States of land to aid in the construction of railroads, in relation to which we have had many cases before us, are in many particulars analogous to the grant by the Swamp-Land Act. They are usually of a specified number of sections of land on each side of the proposed route of the road, with a reservation of certain sales or other disposition made before such road becomes definitely fixed. *The usual words of grant in such cases are similar to those in the Swamp-Land Act—'there is hereby granted.' Though it is impossible to locate the land granted until the route is fixed, yet when that is fixed, the grant takes effect as of the date of the Act.* This would be equally the case were the mode prescribed to fix the boundaries more complicated and difficult. Thus in the case of Leavenworth, L. & G. R. R. Co. v. United States, 92 U. S. 733, the language was, 'There be and is hereby granted to the State of Kansas,' and in reference to it the court said: 'It creates an immediate interest and does not indicate a purpose to give in future. 'There be and is hereby granted' are words of absolute donation and import a grant in praesenti. This court has held that they can have no other meaning; and the land department, on this interpretation of them, has uniformly administered every previous similar grant. * * * They vest a present title in the State of Kansas, though a survey of the lands and a location of the lands are necessary to give precision to it, and attach it to any particular tract. The grant then becomes certain, and by relation has the same effect upon the selected parcels as if it had specifically described them.' See, also, R. R. Co. v. Baldwin, 103 U. S. 426; Missouri, K. & T. R. Co. v. Kansas Pac. R. Co. 97 U. S. 491; Schulenberg v. Harriman, 21 Wall. 44, 60; Rutherford v. Greene's Heirs, 2 Wheat. 196." (P. 499, 121 U. S.)

For the later decisions to the same effect, see:

St. Paul Ry. Co. vs. N. P. Ry. Co., 139 U. S. 1, 11 Sup. Ct. 389, 35 L. ed. 77;
Bardon vs. N. P. Ry. Co., 145 U. S. 535, 12 Sup. Ct. 856, 36 L. ed. 806;
Whitney vs. Taylor, 158 U. S. 85, 15 Sup. Ct. 796, 39 L. ed. 906;
Northern Lbr. Co. vs. O'Brien, 204 U. S. 190, 27 Sup. Ct. 249, 51 L. ed 438.

In the case of Tubbs vs. Wilhoit, 138 U. S. 134, 11 Sup. Ct. 279, 34 L. ed. 887, the court, referring to the Roseberry case, said:

> "Soon after the passage of the Act the question arose in each State as to the time the grant took effect—whether at the date of the Act, or on the issue of the patent to the State upon the request of its governor after the list and plats of the lands had been made out by the Secretary of the Interior and transmitted to him. After much consideration by the officers of the department of the government under whose supervision the Act was to be carried out, and by the courts of the several States in which such lands existed, *it was held that the words 'are hereby granted' in the Act imported a present grant, and not a promise of one in the future; and that the title to the lands, therefore, passed to the State at once, their identification to be made by the action of the Secretary of the Interior, but when identified the title to relate back to the date of the Act.*
>
> "In the recent case of Wright v. Roseberry, 121 U. S. 488, the rulings of the officers of the Land Department, and of the courts of the States in which swamp and overflowed lands existed, by which the conclusion mentioned was reached, are stated with much fulness, and it is unnecessary to repeat what is there said. *It is sufficient to observe that the construction thus given to the Act is now the accepted law of the country.*" (P. 136, 138 U. S.)

This construction has since been accepted as the law, as evidenced by decisions of many state courts and by decisions of the inferior federal courts. The cases are collected in Rose's Notes on United States Reports, volume 13, page 983. These cases show that the swamp land act has been, since the rendition of the decision in the Roseberry case, universally interpreted in accordance with the principles of law therein laid down. That the act has been administered in accordance with these same principles is evidenced by a long line of land decisions:

State of Oregon, 3 L. D. 474;
State of California, 1 L. D. 312;
State of California, 1 L. D. 320;
Instructions, 2 L. D. 471, 472;
Cushing v. Michigan, 4 L. D. 415;
State of Louisiana, 5 L. D. 514;
Marquam v. Suomela, 21 L. D. 279;
State of Minnesota, 22 L. D. 388;
State of Oregon, 23 L. D. 460;
State of Minnesota, 27 L. D. 418;
State of Minnesota, 32 L. D. 65;
State of Minnesota, 32 L. D., 328;
Oregon v. Frakes, 33 L. D. 101;
State of Minnesota, 37 L. D. 397;
Mississippi v. Buford, 48 L. D. 421;
(1921) and (1922), 48 L. D. 427.

And as we read later decisions of this court, we have no hesitancy whatever in advancing the view that this court has consistently adhered to the fundamental rule of the Roseberry case, namely, that the grant was one in praesenti and that upon perfection of title such title relates back to the date of the grant. With respect to these later decisions, (Mich. Land & Lbr. Co. v. Rust, 168 U. S. 589, 18 Sup. Ct. 208, 42 L. ed. 591; Brown v. Hitchcock, 173 U. S. 473, 19 Sup. Ct. 485, 43 L. ed. 772; Niles v. Cedar Point Club, 175 U. S. 300, 20 Sup. Ct. 124, 44

L. ed. 171; Little v. Williams, 231 U. S. 335, 34 Sup. Ct. 68, 58 L. ed. 256; Chapman & Dewey Lbr. Co. v. St. Francis Levee Dist., 232 U. S. 186, 34 Sup. Ct. 297, 58 L. ed. 564; Lee Wilson & Co. v. U. S., 245 U. S. 24, 38 Sup. Ct. 21, 62 L. ed. 128), plaintiff argues to the contrary. Let us briefly review these cases.

1. *Michigan Land & Lumber Co. vs. Rust.*

In this case the court said:

> "The Act of 1850 made a grant in praesenti; in other words, the title then passed to all lands which at that date were swamp lands, and the only matters thereafter to be considered were those of identification." (P. 591, 168 U. S.)

Following this statement of the law, the Roseberry case is cited.

In this case it appears that the lands in controversy, situated in the Ionia Land District in the State of Michigan, had been, prior to 1850, included in surveys made by the United States Land Office. These surveys showed them to be swamp. The Michigan legislature, upon information before it that surveys in this district were in many particulars erroneous, as early as 1842 passed a resolution, directing that the President of the United States be advised of the situation and requested to cause steps to be taken to correct mistakes and errors by resurveys. This was done, the work starting in 1845 and being completed in 1857. The resurveys showed the lands in question not to be swamp.

It appears that in 1854 a list of swamp lands in the Ionia District was made up, approved and certified to the State of Michigan, and that this list included the lands in dispute. The issuance of patents to these lands was withheld, however, the explanation made to the state being that, due to mistakes and errors, the lands within the Ionia District were being resurveyed. Upon the completion of these surveys and the showing made thereby

to the effect that much of the land in the district which had previously shown up as swamp was not swamp, lists conforming to these new surveys were made up, approved and certified by the Secretary of the Interior and forwarded to the Governor of Michigan. The receipt of such lists was acknowledged and a request made for patents to the lands described therein, and patents were issued and accepted covering such lands. These new lists did not contain the lands in controversy and as a consequence they were not patented to the state.

After all this had taken place, and in 1870, the lands in question were sold by the United States at auction, after public advertisement, and patents were issued to such lands. It is through these patents that defendants claimed title.

The contention of plaintiff was that the lands were swamp and granted to the State of Michigan by the Act of 1850; that they were included in a list of such lands in the Ionia Land District, approved by the Secretary of the Interior and forwarded to the Governor of the state on June 13th, 1854; that the Act of March 3, 1857 (11 Stat. 251) confirmed the action of the Secretary of the Interior and thereby passed the title to the state by which it was, on October 14th, 1887, conveyed to plaintiff's grantor.

The question before the court was whether the Secretary of the Interior had the power, after submitting a list of swamp lands to the Governor, to correct such list before the issuance of patents to the state. The court held that the Secretary not only had that power but that it was his duty under the Act to make such corrections; and for the obvious reason that it was for him to see that the state got only what the grant of 1850 gave to it, namely, swamp lands.

But it may be said that the plaintiffs advanced the claim that the lands were as a matter of fact swamp, and as a consequence that the state derived title thereto under the Act of 1850 and as of its date. It may be asked, if the Act of 1850 made a

grant in praesenti to swamp lands, why were not the plaintiffs permitted to show that the lands involved were swamp in character? The court sent the Roseberry case back for a retrial so that the defendant might show the lands claimed were swamp. The court in this case, as in the Roseberry case, held the grant to be in praesenti, passing the title to the state subject to the identification thereof as swamp. In this case the court pointed out that it was the duty of the Secretary of the Interior to designate what lands were swamp and what were not; that he did this with respect to the Ionia Land District with the result that the lands in dispute were not included in the list of swamp lands of that district; that the list so made out was transmitted to the Governor of the state and accepted by him. The court said the identification of swamp lands for the district so made out and accepted was final and conclusive and not open to attack. Neither the state, nor one claiming under it, (the plaintiff in that case) could be heard to question it. In the Roseberry case, the court pointed out that identification of swamp lands was necessary before the state could get a perfect title. Attention was called to the fact that identification had been made in compliance with the law applicable to the State of California, the Act of July 23, 1866. The identification so made was held to be conclusive as to the state; but not as to defendants, for the reason that they were claiming under patents issued by the United States under the preemption laws prior to the date of the identification of the lands as swamp. As a consequence, the case went back for proof as to the character of the lands.

The foregoing analysis of the cases discloses that they are not in conflict. On the contrary, they are in absolute harmony. In both cases it was held that the grant of 1850 was a present one; and that identification was necessary to render the state's title perfect. The only thing the Michigan Land & Lumber Company case did that was not done in the Roseberry case was to hold that, until patent issues, the official charged with identifying

swamp lands has the right to correct mistakes and errors in lists thereof. This was the announcement of new law, but not a modification of that laid down in the Roseberry case.

2. *Brown vs. Hitchcock.*

No particular attention need be given to the Brown v. Hitchcock case, for the reason that the question there presented was the same as the one which had been before the court in the Michigan Land & Lumber Company case. An attempt was made to have the court modify the opinion in the Michigan Land & Lumber Company case. This the court declined to do. It said:

> "Indeed, it may be observed that the argument in behalf of appellant was avowedly made to secure a modification of that opinion. We might well have disposed of this case by a simple reference to that decision; but in view of the earnest challenge by counsel for appellant of the views therein expressed, we have re-examined the question in the light of that argument and the authorities cited. And after such re-examination we see no reason to change, but on the contrary, we reaffirm the decision in Michigan Land & Lumber Co. v. Rust." (P. 477, 173 U. S.)

3. *Chapman & Dewey Lumber Co. v. St. Francis Levee District.*

In this case a township in one of the counties of Arkansas had been surveyed in 1840 and 1841. The lands in controversy and other lands situated within this township were excluded from the survey. They were meandered as a lake and shown to be such on the plat. The township was approximately six miles square and the plat bore an inscription to the effect that the total of the surveyed area was 14,329.97 acres, so that the unsurveyed areas represented as water contained approximately 8,000 acres.

After the passage of the Swamp Land Act of 1850, the state requested that the township be listed as swamp and patented

to it. It was listed in 1853 and patent issued in 1858. The state in requesting the listing described the township as containing 14,329.97 acres, the total of the surveyed area as indicated upon the plat. The Secretary of the Interior in making the list deducted from this total 514.30 acres which it appears had passed to the state under a school land grant. The patent embraced lands in several townships, the portion of the description here material being as follows:

> "Township 12 North of Range 7 East. The whole of the Township (except Section Sixteen), containing thirteen thousand, eight hundred and fifteen and sixty-seven hundredths of an acre—according to the official plats of survey of said lands returned to the General Land Office by the Surveyor General."

The levee district claimed title to the land by reason of a conveyance to it by the state of "all the lands of the state" within a certain district, including this township. The right of the state to convey was based on the swamp land act. The defendants opposed this claim on several grounds, one of which was that the lands had not passed to the state and that they were still the property of the United States.

It is apparent that this single question was before the court: "Did the lands in question pass to the state under the patent conveying to it the lands in township 12?"

The answer to the question turned on the intention, as is shown by the following excerpt from the opinion, written by Mr. Justice Van Devanter:

> "If the patent conveyed these lands to the State we are not concerned with their subsequent disposal, for that is a question of local law. But did the patent include them? This, of course, is a Federal question. In answering it in the affirmative, the state courts regarded the words 'Sunk Lands,' shown upon the plat, as meaning

that the unsurveyed area to which they were applied was land and not water, and also regarded the words 'The whole of the Township (except Section sixteen),' as used in the patent, as embracing all that was within the exterior lines of the township, except Section 16, whether surveyed or unsurveyed and even although meandered and excluded from the survey. We are unable to accede to this view of either the plat or the patent.

"Had the plat shown that all the lands were surveyed, it doubtless is true that the words 'Sunk Lands' would not have indicated the presence of a body of water, but would have been taken in much the same way as would such words as 'valley', 'broken hills' or 'level plateau'. But the plat showed, as did also the field notes, that the area to which the words were applied was not included in the survey, but was excluded therefrom and meandered as a body of water, and also that the adjoining sections and subdivisions were surveyed as fractional, as is usual with lands abutting on a lake or similar body of water. Thus, what appeared upon the plat had the same meaning as if this area had been called 'Sunk Lands Lake'. And that the officers of the State and of the United States so understood is shown by the fact that in the proceedings preliminary to the issuance of the patent, as also in the patent, this and similar areas were excluded in specifying the amount of land in the township.

"Of course, the words in the patent, 'The whole of the township (except Section sixteen)' are comprehensive, but they are only one element in the description and must be read in the light of the others. The explanatory words 'according to the official plats of survey of said lands returned to the General Land Office by the Surveyor General' constitute another elemnet, and a very important one, for it is a familiar rule that where lands are patented according to such a plat, the notes, lines, landmarks and other particulars appearing thereon become as much a part of the patent and are as much to be considered in determining what it is intended to include as if they were set forth in the patent. Cragin v. Powell, 128 U. S. 691,

696; Jefferis v. East Omaha Land Co., 134 U. S. 178, 194. The specification of the acreage is still another element, and, while of less influence than either of the others, it is yet an aid in ascertaining what was intended, for a purpose to convey upwards of 22,000 acres is hardly consistent with a specification of 13,815.67 acres. Ainsa v. United States, 161 U. S. 208, 229; Security Land Co. v. Burns, 193 U. S. 167, 180; 3 Washburn on Real Property, 5th ed. 427. Giving to each of these elements its appropriate influence, and bearing in mind that the terms of description are all such as are usually employed in designating surveyed lands, we are of opinion that the purpose was to patent the whole of the lands surveyed, except fractional section 16, and not the areas meandered and returned, as shown upon the plat, as bodies of water. That it is now found, as shown by the decisions below, that these areas ought not to have been so meandered and returned, but should have been surveyed and returned as land, does not detract from the effect which must be given to the plat in determining what was intended to pass under the patent. Niles v. Cedar Point Club, 175 U. S. 300, 306; Hardin v. Shedd, 190 U. S. 508, 520." (P. 196, 232 U. S.)

There is nothing in this language showing a departure from the rule of the Roseberry case. The holding is simply one that a patent describing a certain township surveyed prior to the issuance thereof does not include lands left unsurveyed through error. The scope of the patent, rather than the scope of the swamp land act, was determined.

Nor can the following remarks of the court be construed as modifying the doctrine of the Roseberry case:

> "But it is said on behalf of the levee district that, even though the lands were not included in the patent, they passed to the State under the Swamp-Land Act independently of any patent, and passed thence to the district under the state act of 1893, The contention is not ten-

> able. *The lands were never listed as swamp lands and their listing does not appear to have been even requested, doubtless because they were not surveyed. Assuming that in fact they were swamp lands, the State's title under the Swamp-Land Act was at most inchoate and never was perfected. Not only so, but the State relinquished its inchoate title to the United States as part of a compromise* and settlement negotiated in 1895, and the relinquishment is binding upon the levee district as a subordinate agency of the State. Little v. Williams, 231 U. S. 335. See Carson v. St. Francis Levee District, 59 Arkansas, 513, 533-535." (P. 198, 232 U. S.)

Having in mind the fact that the lands in question had never been identified as required by the Act of 1850, how can these remarks be treated as in conflict with the rule of the Roseberry case? In that case it was held that the grant was one in praesenti, but that, to render the title of the state perfect, identification was necessary. If the lands in that case had never been surveyed, would not the court have held them a part of the public domain? In both cases the court recognized identification to be necessary and that the ultimate identification must be made in the manner provided and by the official authorized by law. It was recognized that it is not for the court to say what lands are and what lands are not swamp in character. In the Roseberry case, identification had been made. In the case under consideration this was not true. The lands, not having been identified as swamp as by law required, and not having been disposed of by the United States, were held to be public lands belonging to the United States.

4. *Niles vs. Cedar Point Club.*

In this case the court, following the case of Michigan Land & Lumber Company vs. Rust, said:

> "With respect to the contention that the character of this marsh, as it was found to have been, shows that it

should have passed to the state of Ohio under the swamp land act, *it is enough to say that the state of Ohio applied for it as such, that the application was denied, that this denial was made in* 1852, *that the land was never patented to the state and without such patent no fee ever passed,* Michigan Land & Lumber Co. v. Rust, 168 U. S. 589, that subsequently the land department treated it as land subject to its control as public land of the United States, had it surveyed, sold and patented. *Whatever claims the state of Ohio may have cannot be litigated in this suit.* The legal title passed by the patent to the appellee's grantors, and that title is certainly good as against a stranger with no equities." (P. 308, 175 U. S.)

5. *Little vs. Williams.*

This was a suit to quiet title to about 1,200 acres of land in Mississippi County in the State of Arkansas. Plaintiff claimed title through (a) the Act of Congress of September 28, 1850 (9 Stat., 519) granting swamp and overflowed lands to the state; (b) an Act of the Legislature in 1893 (Laws Ark. 1893, page 172) granting to the St. Francis Levee District "all the lands of this state" lying within that district; and (c) a deed of March 11, 1903, from the Levee District to the plaintiff. After the trial, the chancery court of the county entered a decree dismissing the complaint on the merits. The lands in controversy had never been selected by the state or listed by the Secretary of the Interior as swamp or overflowed lands; nor were they ever patented to the state. In addition to this, as part of a compromise and settlement between the state and the United States, negotiated in 1895 and approved by the state legislature in 1897 and by Congress in 1898, the state accepted the lands theretofore patented, approved or confirmed to it under the Swamp Land Act as the full measure of lands due to it thereunder and relinquished to the United States all other claims or demands, adjusted or unadjusted, growing out of that act.

In view of the finding that the land in controversy was

never patented to the state, the question presented was whether the Swamp Land Act of 1850 in itself operated to invest the state with the title in any such sense "as to be of present avail to the plaintiff." The state court answered the question in the negative and was affirmed by the Supreme Court.

With respect to the nature of the grant, the court—Mr. Justice Van Devanter writing the opinion—said:

> "Although the terms of the 1st section of the act denote a present grant to the state of the 'swamp and overflowed lands, made unfit thereby for cultivation,' the 2d section lays upon the Secretary of the Interior the duty of identifying and listing the lands coming within the terms of the grant and of causing patents therefor to be issued to the state 'at the request of' its governor, and then declares: 'And on that patent the fee simple to said lands shall vest in the said state,' subject to the disposal of its legislature. It became necessary, in Rogers Locomotive Works v. Emigrant Co., 164 U. S. 559, to determine the meaning and effect of the act in the light of these provisions and of prior decisions, and it was there said (p. 570): *'While, therefore, as held in many cases, the act of 1850 was in praesenti, and gave an inchoate title, the lands needed to be identified as lands that passed under the act; which being done, and not before, the title became perfect as of the date of the granting act.'* And again (p. 574): 'It belonged to him (the Secretary of the Interior), primarily, to identify all lands that were to go to the state under the act of 1850. *When he made such identification, then, and not before, the state was entitled to a patent, and "on such patent" the fee-simple title vested in the state. The state's title was, at the outset, an inchoate one, and did not become perfect, as of the date of the act, until a patent was issued.'* What was there said has since been regarded as the settled law upon the subject. Michigan Land & Lumber Co. v. Rust, 168 U. S. 589, 592; Brown v. Hitchcock, 173 U. S. 473, 476; Niles v. Cedar Point Club, 175 U.

S. 300, 308; Ogden v. Buckley, 116 Iowa 352; Birch v. Gillis, 67 Mo. 102; Carr v. Moore, 119 Iowa, 152, 159." (P. 339, 231 U. S.)

6. *Lee Wilson Co. vs. United States*:

This case offers nothing new. It simply follows the previous decisions, Niles vs. Cedar Point Club and Chapman & Dewey Lumber Co. vs. St. Francis Levee District.

The foregoing review of the more recent cases with respect to the character of the swamp land grant shows that there has been no real change in the law as laid down in the Roseberry case. It has been consistently held that the grant was one in praesenti; and as consistently held that upon perfection of title the title relates back to the date of the grant.

Application of doctrine of relation to the swamp land grant specially considered.

In the Roseberry case it was said:

> "When identified, the title would become perfect as of the date of the act." (P. 500, 121 U. S.)

In Rogers Locomotive Machine Works vs. American Emigrant Co. 164 U. S. 559, 17 Sup. Ct. 188, 41 L. ed. 552, the court said:

> " While, therefore, as held in many cases, the act of 1850 was in praesenti, and gave an inchoate title, *the lands needed to be identified* as lands that passed under the act; *which being done, and not before, the title became perfect as of the date of the granting act.* Wright v. Roseberry, 121 U. S. 488, 494, et seq; Tubbs v. Wilhoit, 138 U. S. 134, 137; Chandler v. Calumet & Hecla Mining Co., 149 U. S. 79, 91." (P. 570, 164 U. S.)
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> * * *
>
> "It belonged to him, primarily, to identify all lands that were to go to the State under the act of 1850. *When he made such identification, then and not before, the State was entitled to a patent, and 'on such patent' the*

fee-simple title vested in the State. The State's title was at the outset an inchoate one, and did not become perfect, as of the date of the act, until a patent was issued." (P. 574, 164 U. S.)

In Little vs. Williams, supra, the court quoted with approval the above language from the case of Rogers Locomotive Machine Works vs. American Emigrant Company, and said:

"What was there said has since been regarded as the settled law upon the subject." (P. 340, 231 U. S.)

In the case of Work, Secretary of Interior, vs. Louisiana, the opinion in which, written by Mr. Justice Sanford, was handed down November 23, 1925, the court said:

"*The grants of swamp lands made by the Acts of* 1849 and *1850 were in praesenti and gave the states an inchoate title to such lands that became perfect, as of the dates of the acts, when they had been identified as required and the legal title had passed by the approval of the Secretary under the Act of 1849 or the issuing of a patent under the Act of 1850.* This has long been the settled construction of the Act of 1850. Rogers Locomotive Works vs. Emigrant Co., 164 U. S. 559, 570; Little vs. Williams, 231 U. S. 335, 339.

"*Each of these acts made a broad and unrestricted grant of the swamp lands.* Neither contained any exception or reservation of mineral lands."

* * *

"It is clear that, if there was no settled policy in reference to the reservation of mineral lands prior to the Acts of 1849 and 1850, there is no substantial ground for reading such a reservation into the broad and unrestricted grants of swamp and overflowed lands made to the states, *in praesenti*, by these acts, especially since such lands were not then generally known to contain valuable minerals, and when unfit for cultivation were commonly regarded as having value only after reclamation—the purpose for which both of these grants were made—the discovery of their oil and gas having been made at a much later date."

For other cases announcing and applying the doctrine of relation with respect to land grants, some of which involve the swamp land grant, see the following:

Chandler vs. Mining Co., 149 U. S. 79, 13 Sup. Ct. 798, 37 L. ed. 667;

McCormick vs. Hayes, 159 U. S. 346, 16 Sup. Ct. 37, 40 L. ed. 171;

Martin vs. Marks, 97 U. S. 345, 24 L. ed. 940;

French vs. Fyan, 93 U. S. 169, 23 L. ed. 812;

St. Paul R. R. Co. vs. N. P. Ry. Co., 139 U. S. 1, 11 Sup. Ct. 389, 35 L. ed. 77;

M. K. & T. R. R. Co. v. Kans. Pac. R. R. Co., 97 U. S. 491, 24 L. ed. 1095.

In the case at bar, swamp lands were granted to Minnesota by the Congressional Act of 1860. According to plaintiff, the President, with the concurrence of the Senate, thereafter transferred certain of these lands to the Indians—the lands here involved. This, it is claimed, is what was done by the Treaties of 1863, 1864 and 1867. After the making of the treaties, the lands were patented to the state as swamp. Of course, the preliminary steps with respect to identification and selection had been taken. Upon the issuance of patents, perfect title vested in Minnesota, and such title related back to the date of the grant, March 12, 1860, cutting out all claims based on the Treaties of 1863, 1864 and 1867. We see no escape from this conclusion in the light of the law as laid down in the decisions reviewed.

II.

The character of the grant with respect to its application to Minnesota was not changed by the Act of 1860.

1. *The Proviso.*

Plaintiff argues that, conceding the grant as originally made one in praesenti, the act extending the same to Minnesota so

modified its terms as to clearly indicate that neither the legal title nor any vested equitable right was to pass until the issuance of patents. It is said that a proviso contained in the Act of 1860 is necessarily inconsistent with the idea of a present grant; and that section 2 thereof shows that the grant, as extended to Minnesota, was one on condition and, the condition never having been complied with, the lands reverted back to the United States.

The proviso reads as follows:

> "Provided, that the grant hereby made shall not include any lands which are Government of the United States may have reserved, sold, or disposed of (in pursuance of any law heretofore enacted) prior to the confirmation of title to be made under the authority of the said act."

This emphasizes that the grant was a present one rather than showing to the contrary. The words "the grant hereby made" were made use of. It was the use of the words "hereby granted" in the Act of 1850 that was regarded so significant in the cases where the court was called upon to characterize the grant of 1850, and in which the court characterized the same as ne in praesenti.

The only purpose and effect of this proviso was to withdraw from the grant certain lands, namely, those lands which the Government may have reserved, sold or disposed of prior to the issuance of patent (confirmation of title) in pursuance of a law enacted prior to March 12, 1860. Upon the lands so withdrawn the act did not operate at all. Upon all other swamp lands it operated fully and at once. Out of the whole the withdrawal carved some lands, but no condition was thereby attached to the lands not carved out. The proviso, in effect, said to the states: "We must keep back from this present grant those lands which by a prior congressional act we have conveyed or hereafter must convey to another." This, we submit, is the only interpretation in accord with reason and common sense. It should prevail with-

out hesitation, it seems to us, over the strained construction of plaintiff.

2. *Section 2.—Its Purpose and Effect.*

Section 2 reads as follows:

> "Sec. 2. And be it further enacted, that the selection to be made from lands already surveyed in each of the States including Minnesota and Oregon, under the authority of the act aforesaid, and of the act to aid the State of Louisiana in draining the swamp lands therein, approved March second, one thousand eight hundred and forty-nine, shall be made within two years from the adjournment of the legislature of each State at its next session after the date of this act; and, as to all lands hereafter to be surveyed, within two years from such adjournment, at the next session, after notice by the Secretary of the Interior to the governor of the State, that the surveys have been completed and confirmed."

The administration of the Act of 1850 prior to the enactment of the Act of 1860 had not been to the satisfaction of the states. This was due to the delay of the Secretary of the Interior in identifying the lands and furnishing to the states the required lists. The legislatures of the states in which such lands existed very generally themselves undertook to identify the lands, and to dispose of them, and for that purpose passed legislation for their survey and sale and the issuance of patents to purchasers. Much inconvenience, and in many instances confusion of title, arose between those claiming under the state and those claiming directly from the United States. To straighten out matters Congress passed an act on March 2, 1855 (10 Stat. 634) and another on March 3, 1857 (11 Stat. 251). Prior to these acts doubt existed as to the right of the states to do as heretofore outlined. These enactments recognized this right. It was said to exist in the Roseberry case. Selections of land made by a state, as to whether swamp in character, were, however, subject

to review by the Secretary of the Interior. His determination in all cases was necessary and when made was conclusive, except under the peculiar procedure prevailing in California. The Act of 1860 recognized this right, but Congress evidently felt that states making their own selections should proceed promptly. It therefore provided in effect that where a state elects to do its own selecting, it must do so with respect to surveys made prior to the date of the act within two years after the adjournment of its legislative session following notice of the approval of the surveys. The recognition of this right and the imposition of a restriction on the exercise thereof cannot be construed as changing the character of the grant. The grant continued the same as before. The section was simply a declaration to the states choosing to exercise this right that they must do so within a specified time. Does this mean that a failure to select within the time designated works a forfeiture of swamp lands? Not at all. Such a failure would amount to a waiver of the right to select in advance of action by the Secretary of the Interior; in other words, an election to await the pleasure of the Secretary in the premises.

The court seems to have been of the same view in the Roseberry case, where this was said:

> "The Act of Congress of March 12, 1860, 12 Stat. 3, chap. 5, extending the provisions of the Swamp-Land Act to Minnesota and Oregon, *recognized in its second section their right and that of other States to make selections of the swamp lands, or rather to provide for their identification, without waiting for the action of the Secretary of the Interior.* That section provides that the selection to be made from lands already surveyed in each of the States should be made within two years from the adjournment of the Legislature of the State at its next session after the date of the Act, and, as to all lands thereafter to be surveyed, within two years from such adjournment at the next session, after notice by the Secretary of the Interior to the Governor of the State that the surveys

have been completed and confirmed." (P. 510, 121 U. S.)

3. *Practical Construction.*

That Section 2 has always been construed as giving the states the option of making their own selections, or leaving it to the pleasure of the Secretary of the Interior, will be shown by what will be said under subdivision III of this brief.

III.

The act as extended to Minnesota was administered, and with particular reference to the lands in question, in strict accord with the construction of many years' standing placed thereon by those charged with the duty of administering the same.

1. *Identification and Selection Under the Act of 1850.*

The Act of 1850 was construed by the Secretary of the Interior at a very early date as giving to the states the option of making selections themselves or awaiting action by the Secretary of the Interior. This is shown by a statement prefacing a pamphlet, setting forth swamp land laws, regulations and decisions thereunder, published by the Department of the Interior, General Land Office, on March 17, 1896. The statement reads as follows:

"Department of the Interior,
General Land Office,
Washington, D. C., March 17, 1896.

"As soon as practicable after the passage of the swamp land grant of September 28, 1850, viz. on the 21st November, 1850, the commissioner transmitted to the governors of the respective States to which the grant applied copies of office circular setting forth the provisions of said act, giving instructions thereunder, and allowing the

States to elect which of two methods they would adopt for the purpose of designating the swamp lands, viz:

"1. The field notes of Government survey could be taken as the basis for selections, and all lands shown by them to be swamp or overflowed, within the meaning of the act, which were otherwise vacant and unappropriated September 28, 1850, would pass to the States.

"2. The States could select the lands by their own agents and report the same to the United States surveyor general with proof as to the character of the same.

"The following States elected to make the field notes of survey the basis for determining what lands passed to them under the grant, viz.: Louisiana, Michigan and Wisconsin. Later the State of Minnesota adopted this method of settlement.

"The authorities of the following States elected to make their selections by their own agents and present proof that the lands selected were of the character contemplated by the swamp grant, viz: Alabama, Arkansas, Florida, Illinois, Indiana, Iowa, Mississippi, Missouri and Ohio. Later Oregon adopted this method.

"The States of Alabama, Arkansas, Indiana, Mississippi and Ohio adopted the second method at the beginning, but they changed to the first method, i. e., to the field notes of survey, as a basis of settlement, in recent years.

"The authorities of California did not adopt either method, and the passage of the act of July 23, 1866, rendered such action on their part unnecessary.

"In Louisiana the selections under the grant of March 2, 1849, forming the bulk of the selections in said State, are made in accordance with the terms of said act by deputy surveyors, under the direction of the United States surveyor general, at the expense of the State.

"All lands properly selected and reported to this office as swamp are placed of record in books especially prepared for that purpose. Thereafter the selections are compared with the other records of the office, and lists of such lands as are shown to be swamp or overflowed,

within the meaning of the act, and that are otherwise free from conflict are made out by this office and submitted to the Secretary of the Interior with the recommendation that the same be approved.

"When the lists have been approved by the Secretary and returned to this office duplicate copies of the same are made out, one of which is transmitted to the governor of the State, with the statement that on receipt of his request patent will issue to the State for the lands. The other list is transmitted to the register and receiver of the land office in which the lands are situated, and they are requested to examine the same with the records of their office and report any conflicts found.

"Upon receipt of reply to the letters of this office as above, patents issue to the State for all lands embraced in said lists so far as they are free from conflict.

"Under the provisions of the act of March 2, 1849, granting swamp lands to the State of Louisiana, a certified copy of the list approved by the Secretary of the Interior, transmitted to the governor, has the force and effect of a patent.

"The 'list' referred to in section 2 of the act of September 28, 1850, is held to be the copy of the list approved by the Secretary of the Interior sent to the governor, upon which his request for patent is based."

2. *Identification and Selection Under the Act of 1860—Minnesota elected to abide by the field notes of the government surveys.*

The act as extended to Minnesota was construed in the same way almost immediately following the passage of the Act of 1860.

The matter of identifying and selecting the swamp lands granted to Minnesota under the Act of 1860 was taken up by the Comissioner of the General Land Office, acting under direction of the Secretary of the Interior, on May 21, 1860, in a communi-

cation addressed to the Governor of the State of Minnesota, reading in part as folows:

> "Preliminary to the adjustment of the business with the several States affected by the general grant two propositions were submitted designed to obtain a plan or basis which should be adhered to, and be conclusive in the settlement of the great interests involved:
>
> "1st. Whether the States would be willing to abide by the field notes of the surveys as designating the lands, or
>
> "2nd. Whether in the event of their non-acceptance of these notes as the basis the States should furnish evidence that any lands are of the character embraced by the grant.
>
> "The privilege of accepting one or the other of these propositions having been accorded to those states the same is extended to Minnesota.
>
> "Having experience in the adjustment of the grant with those states it is respectfully suggested by this office that by the adoption of the first proposition the State will receive all the lands to which she is justly entitled, as the field notes of the survey are very full in characterizing or giving description to the soil; and an important reason for doing so is that she will incur no expense in selecting or designating the lands." (32 L. D. 66).

On July 14, 1860, the Governor of Minnesota, in answer to this communication, submitted to said Commissioner the following inquiries:

> "If the State of Minnesota should elect to be governed in the selection of the lands allotted to her by the notes and plats of survey in the land office, would the general government also be concluded by this selection? Would a patent issued to the State preclude individuals thereafter taking any of these lands, upon showing that in fact they were not swamp lands?" (32 L. D. 66).

which were answered by him on October 8, 1860, in this way:

> "In reply to your letter of the 14th ulto., relative to the lands granted to the State of Minnesota as swamp, * * * I have to state, by whichever of the two modes submitted the lands may be selected, the general government reserves to itself the right to supervise the selecting, and holds them subject to its control until they shall have been approved and patented to the States." (32 L. D. 67).

As a result of this correspondence, the legislature of the State of Minnesota at its 1862 session enacted Chapter 62, General Laws of Minnesota for the year 1862, Section 48 of which provided that

> "The surveys on file in the Surveyor-General's office are hereby adopted as the basis upon which will be accepted the swamp lands granted to the State by the act of Congress of March 12th, 1860." (32 L. D. 67).

The Governor of the state soon thereafter in a letter to said Commissioner advised him of this action, and among other things said:

> "I have, therefore, to inform you, that the State of Minnesota will, nder the act of Congress of March 12, 1860, * * * abide by the field notes of the Government surveys, designating the lands, etc., and I have, therefore, to ask that you will direct immediate steps to be taken to confirm in Minnesota title to these lands." (32 L. D. 67).

3. *Failure of Minnesota to select in accordance with section 2 of the Act of 1860 held not to result in forfeiture.*

Whether the state lost the swamp lands by reason of its failure to identify the same in accordance with the provisions of section 2 was before the Secretary of the Interior for consideration in 1877. On December 4th of that year he addressed

a communication to the Commissioner of the General Land Office, in which he said:

> "The action of the legislature of Minnesota, approved by the chief executive of the state, was, so far as the power existed in the grantee, a selection by her of the lands granted. All that remained to be done in the premises, where lands had been surveyed prior to March 12, 1860, was merely the clerical duty of preparing the lists of lands thus enuring to the state, and the issuing of a patent for the same * * * duties that in the ordinary course of the administration of the laws pertaining to our land system would take much time * * *.
>
> "This Department invited the state to adopt a certain method of ascertaining what lands enure to her under a grant. The state having complied with the suggestion, exhausted her power to act in the premises, and the Department is barred from asserting that, because of its laches and delay in identifying the lands, the selection has not been made within the prescribed time. The government is not in a position to raise that question.
>
> * * *
>
> "The principles announced in this letter should govern in the adjustment of the swamp grant to the State of Minnesota."
>
> 2 Copp. 1081.

The question was again raised in 1895 and the answer thereto is found in Marquam vs. Suomela, 21 L. D. 279. We quote from this decision as follows:

> "The remaining question is, whether or not the state forfeited its right to the land by its failure to select the same according to the terms of the 2nd section of the act making the grant (12 Stat. 3). That section provides that:
>
> The selection to be made from lands already surveyed in each of the states including Minnesota and

Oregon, shall be made within two years from the adjournment of the legislature of each state at its next session after the date of this act; and, as to all lands hereafter to be surveyed, within two years from such adjournment, at the next session after notice by the Secretary of the Interior to the Governor of the state that the surveys have been completed and confirmed.

"The land herein was surveyed and the survey was approved December 30, 1856, and the selection was not made until September 21, 1871.

"It is manifest, therefore, that the legislative mandate was not observed in this selection.

"The case of Pengra v. Munz (29 Fed. Reporter 830), cited by counsel, holds that the grant of 1860 (supra) to Oregon and Minnesota was made upon the condition precedent that the selection of lands thereunder is made within the time limited therein, and that if the selection is not made within the time prescribed, the grants revert to the United States.

"I cannot concur in this view of the law.

"The Act of September 28, 1850, known as the swamp land grant, was made applicable to the state of Oregon by the Act of 1860 (supra). It granted 'the whole of those swamp and overflowed lands which may be or are found unfit for cultivation.' Under that designation and description, the act read 'shall be and the same are hereby granted.' It was therefore a present grant, as has been repeatedly held by the courts. Railroad Company v. Fremont Company, 9 Wall. 89; Martin v. Marks, 7 Otto, 345.

* * *

"The land being of the character contemplated in the Swamp Land Act, passed to the state, notwithstanding the failure of the state to make its selections within the time prescribed in the grant. (See letter of Secretary Schurz, June 4, 1880, 7 Copp. p. 53; also Crowley vs. State of Oregon, Idem p. 28.)" Marquam v. Suomela, 21 L. D. 279 (1895).

The Marquam case related to Oregon swamp lands; and it

should be noted that Oregon had elected to make its own selections and not be bound by the Government field notes.

In 1906, the Attorney General of the United States ruled that the state did not forfeit the grant by failing to select in accordance with section 2. (25 Opin. 626).

The question was last considreed in Rutledge vs. State of Minnesota, 37 L. D. 397, rendered on January 15, 1909, where this was said:

> "The effect of the proviso respecting the making of selections within two years after survey, was most carefully considered by this Department during the year 1906, upon a question presented by the Secretary of Agriculture, and, in view of the importance of the matter, the question was referred to the Attorney-General for his opinion. On June 15, 1906, the Attorney-General advised this Department that the proviso in question was not a condition or limitation of the grant, but merely a direction to the Secretary of the Interior. (See 25 Opinions Attorney-General, 626.)
>
> "It will be observed that this opinion supports the views expressed by Secretary Schurz in a communication addressed to the Commissioner of the General Land Office on December 4, 1877 (2 Copp's Public Land Laws, 1081)."

4. *History of Administration in Minnesota.*

Until 1886 the practice was to determine the state's title to lands in accordance with the disclosures made by the field notes of the government surveys. Following the decision in the case of Lachance v. The State of Minnesota (4 L. D. 479), handed down in 1886, and until 1903, a settler, an applicant under the public land laws, or the United States, was permitted to question the returns of the United States Surveyor as to the character of any given piece of land. There was no regulation promulgated or procedure adopted whereby the state could question such

returns; and the state throughout this period was held bound by the field notes, notwithstanding they might in a given case be erroneous to the state's loss. Under this practice the Secretary of the Interior adopted the plan of identifying swamp lands by examinations by agents in the field and by contests and hearings before the land department. The state at all times protested against this scheme of adjustment, and insisted that its grant should be adjudicated upon the field notes alone. In 1903 the Secretary of the Interior, considering the practice to be cumbersome, expensive, slow, litigious and generally unsatisfactory discarded it, except as to certain pending controversies, and returned to the original practice, namely, that of administering the grant on the basis of the field notes of the government surveys. Notwithstanding this, the practice was not thereafter strictly adhered to. With respect to the lands here involved the field notes were not in all cases followed. A re-examination of some of the lands was made in 1910 under the direction of the Secretary of the Interior, and patents to some thereof were issued based on the report of the Secretary's field agents. Settlers on some of the lands not so patented were permittd to question the accuracy, not only of the field notes of the original surveys, but also of the re-examination to the effect that the lands were swamp in character. This resulted in numerous contests before the Land Department and the Secretary of the Interior. The state asserted its claim in these contests by offering proof in support of the disclosures made by the field notes and re-examination. The ultimate decisions in these contests with respect to the character of the lands were held by the Secretary to be determinative of the state's right to such lands. State of Minnesota, 32 L. D. 65.

As heretofore shown, Minnesota was given the privilege of having its swamp lands identified and selected in one of two ways. It chose the plan recommended and urged upon it by the Secretary of the Interior. It has been held to this plan

throughout the administration of the law down to the present time. From 1886 to 1903, the period during which a modified scheme for identification and selection was put into operation, both the Secretary of the Interior and the state proceeded on the supposition that Minnesota was bound by the field notes. Minnesota made its choice and by reason of the character thereof and the procedure followed by the Secretary of the Interior as above outlined, there has been nothing for Minnesota to do in the matter of selecting swamp lands. After each survey there remained only the matter of making out lists of lands inuring to the state with the resultant issuance of patents. This the Secretary has all along assumed to be within the line of his duty, and correctly so. The lists would first be made up by the Commissioner of the General Land Office, and by him submitted to the Secretary of the Interior, who, if approved by him, would return them to the Comissioner, who would make duplicate copies thereof, and transmit one to the Auditor of the state. The lists would then be examined by said Auditor and differences, if any, between the state and the Department of the Interior adjusted, after which a request would be made for patent and patent would thereupon issue. Under this procedure, followed by reason of Minnesota's election to abide by the field notes, defendant has never had anything to do with the matter of selecting and listing swamp lands; this has always been considered by both federal and state officials as within the exclusive jurisdiction of the Secretary of the Interior. The state has always, and with particular reference to the lands involved in this suit, acted with due diligence in demanding the issuance of patents following the submission to her of swamp land lists as aforesaid. (R. p. 65.)

5. *Land Decisions.*

That Section 2 did not operate to change the character of the grant from one in praesenti to one on condition has always been the opinion of the Interior Department is shown, in addition to the practice followed in administering the grant, by many

land decisions. 7 Copp's L. O. 28, 23 L. D. 460, 27 L. D. 418, 32 L. D. 65, 32 L. D. 328, 33 L. D. 101 and 37 L. D. 397. Portions of these decisions are set out in an appendix attached to this brief.

IV.

The construction placed on the grant by the Interior Department is in accord with the true intent and meaning of the act; if doubt exists as to this, the grant having been consistently administered in accordance therewith, such construction should be accepted by the court.

The foregoing practice and land decisions show clearly that the Interior Department has at all times administered the grant as to Minnesota on the basis that Section 2 did not impose an obligation upon Minnesota to make selections in accordance therewith; but that such section simply gave to Minnesota the option of making selections if it should care to do so. Minnesota elected to leave the matter of selecting the lands to the Secretary of the Interior; in other words, to abide by the field notes of the Government surveys. And the act has been consistently administered in acordance with this interpretation. We contend that this interpretation is in accord with the purpose and intent of Section 2; this for reasons already stated. If, however, there should be doubt as to this, we insist that the situation is one for the application of the rule that a construction placed on a law by the officer or department charged with the duty of administering it, followed for many years, will be accepted by the courts.

1. *Reasons for Application of Doctrine of Practical Construction.*

If the construction placed on the act and followed in the administration of the grant made thereby be now declared wrong, the transfer of thousands of acres of land in addition to those here involved will necessarily be in jeopardy. In fact, a suit is now pending in this court commenced by the United States

against Minnesota at about the time of the institution of the suit at bar, in which the United States seeks to recover the value of 475,049.92 acres of land claimed to have been illegally patented to the state. The lands were patented pursuant to the construction given the law by the Secretary of the Interior as aforesaid, and the practice with respect to identifying and selecting the lands as outlined was followed.

The first of the patents to lands not here involved were issued to the state approximately forty-nine years ago, and the last twenty-one years ago (see answer United States vs. Minnesota, No. 24, Original); and the first of the lands here involved some twenty-five years, and the last some thirteen years ago. The bulk of all the lands have been sold by Minnesota to private parties.

In the handling of the lands, involving appraisals, sale, collections of principal and interest and the keeping of records, the state has expended many thousands of dollars. The state has always interested itself in the settlement and improvement of the lands. Approximately $2,000,000 have been appropriated out of the general funds of the state, and approximately $49,000,000 have been spent by local subdivisions in reclaiming these lands through the construction of drainage projects. These projects have made hundreds of thousands of acres of swamp lands patented to the state fit for agricultural purposes, and they are now occupied, to a large extent, by persons who are operating them as farms.

The lands have been sold and are sold on long-time contracts, copy of one thereof being attached to and made a part of the answer. (R. p. 72.) Most of the contracts heretofore entered into have a number of years yet to run. Under these contracts, purchasers are required to make annual payments, and when full payment is made patent from the state issues. Proceeds have been and will continue to be placed in the trust funds of the state, pursuant to the provisions of section 2 of article 8 of the state constitution. (R. p. 69.)

These provisions require that such funds forever remain inviolate and undiminished, authority being given thereby to invest the same in certain specified securities. In the exercise of this authority, the legislature has directed that such sums be loaned on the bonds of the United States, the State of Minnesota, and all counties, towns, cities, villages and school districts thereof. This direction was first made many years ago, since which time the law has been in minor details modified. The law as it now stands is found in Session Laws of Minnesota for 1921, Chapter 516, a copy of which is attached to and made cise of this authority, the legislature has directed that such a part of the answer. (R. p. 73.) Proceeding under this legislative direction and laws enacted providing for the necessary machinery for loaning the funds, the bulk of such funds are kept invested in the bonds of municipalities, and principally in the bonds of school districts of the state for the erection and equipment of school houses. Of such funds, aggregating about $8,000,000, approximately $6,000,000 are now invested in the bonds of municipalities of the state. The state cannot turn over to plaintiff proceeds which have been and will be derived from the sale of swamp lands, but must, in case plaintiff is successful in this suit, call upon her property owners to furnish the requisite amount through the imposition upon them of levies of taxes for such purpose.

This court has not to date had occasion to consider the swamp land grant as extended to Minnesota. In the light of the foregoing, it is earnestly urged that such act should be construed in harmony with the interpretation given thereto by those charged with administering it. This, we say, should be done in case the court should entertain some doubt as to the soundness of such interpretation from a legal point of view. As heretofore stated, it is our position that the Interior Department has interpreted and administered the law in accordance with its true intent and meaning.

2. *Decisions on Practical Construction.*

The court, of course, has on numerous occasions accepted the construction placed on a law by those charged with administering it. The proposition has been stated in a variety of ways. We quote from a few decisions.

In United States v. Alabama Railway Co., 142 U. S. 615, 12 Sup. Ct. 306, 35 L. ed. 1134, it was said:

> "We think the contemporaneous construction thus given by the Executive Department of the Government, and continued for nine years through six different administrations of that Department, * * * *should be considered as decisive in this suit.* * * * It is a settled doctrine in this court that in case of ambiguity, the Judicial Department will lean in favor of a construction given to a statute by the Department charged with the execution of such statute, and if such construction be acted upon for a number of years, *will look with disfavor upon any sudden change,* whereby parties who have contracted with the Government upon the faith of such construction, may be prejudiced." (P. 621, 142 U. S.)

In United States v. Moore, 95 U. S. 760, 24 L. ed. 588, it was said:

> "The construction given to a statute by those charged with the duty of executing it is always entitled to the most respectful consideration and ought not to be overruled without cogent reasons." (P. 763, 95 U. S.)

In the case of Louisiana v. Garfield, 211 U. S. 70, 29 Sup. Ct. 31, 53 L. ed. 92, it was said:

> "As we understand, the continuous construction of the department has been to be contrary, and a great number of titles to a very large amount of land would be disturbed if we should accede to this argument. We see no reason for overthrowing the long continued understanding * * *." (P. 76, 211 U. S.)

In Logan v. Davis, 233 U. S. 613, 34 Sup. Ct. 685, 58 L. ed. 1121, it was said:

> "Many thousands of acres have been patented to individuals under that interpretation, and to disturb it now would be productive of serious and harmful results. The situation, therefore, calls for the application of the settled rule that the practical interpretation of an ambiguous or uncertain statute by the executive department charged with its administration is entitled to the highest respect, and, if acted upon for a number of years, will not be disturbed except for very cogent reasons." (P. 627, 233 U. S.)

In the case of California v. Deseret Water Company, 243 U. S. 415, 37 Sup. Ct. 394, 61 L. ed. 821, it was said:

> "It is true that the interpretation of the statute has not been uniform in the Department of the Interior, and it has been otherwise construed in at least one of the Federal Courts: * * * But the interpretation for which the State insists has been long given to it by the Interior Department * * * is still adhered to by the Land Department; that selections aggregating many thousands of acres have been made in reliance upon it, and that no doubt large expenditures of money have been made in good faith upon the selected lands. * * * In this situation we should be slow to disturb a ruling of the department of the government to which is committed the administration of the public lands." (P. 420, 243 U. S.)

Also, in United States v. Hammers, 221 U. S. 220, 31 Sup. Ct. 593, 55 L. ed. 710, it was said:

> "We do not find the act of 1891 as clear as the learned district court did, and must give to decisions of the Land Department the weight to which in such case, the court acknowledged, they are entitled." (P. 225, 221 U. S.)

"Conceding then, that the statute is ambiguous we must turn as a help to its meaning, indeed, in such case, as determining its meaning, to the practice of the officers whose duty it was to construe and administer it. They may have been consulted as to its provisions, may have suggested them, indeed have written them. At any rate, their practice, almost coincident with its enactment, and the rights which have been acquired under the practice, make it determinately persuasive." (P. 228, 221 U. S.)

It is stated in Orchard v. Alexander, 157 U. S. 372, 15 Sup. Ct. 635, 39 L. ed. 737;

"So many rights, it may be presumed, have been created in reliance upon it that the courts will hesitate to decide that the construction thus practically asserted is erroneous, and so overthrow all the titles depending thereon." (P. 383, 157 U. S.)

In Heath v. Wallace, 138 U. S. 573, it was said:

"* * * the case would seem to be brought within the rule announced at a very early day in this court, and reiterated in a very large number of cases, that the construction given to a statute by those charged with the execution of it is always entitled to the most respectful consideration, and ought not to be overruled without cogent reasons." (P. 582, 138 U. S.)

Also, in United States v. Chicago etc Ry Co., 218 U. S. 233, 31 Sup. Ct. 7, 54 L. ed. 1015, it was said:

"'Since then most, if not all, of the lands have been sold and conveyed to numerous purchasers of small tracts, who bought them in good faith and for value. Twenty-five years or more of quiet enjoyment of the land in question have now elapsed. No fraud or unfair practices in any stage of the proceedings leading up to the final patents are charged against the railway company or any

> persons acting for it. In such circumstances, it would, in our opinion, be inequitable and conductive of no good results to grant the relief sought by this bill.'" (P. 241, 218 U. S.)

In Schell v. Fauche, 138 U. S. 562, 11 Sup. Ct. 376, 34 L. ed. 1040, it was said:

> "In all cases of ambiguity, the contemporaneous construction, not only of the courts but of the departments, and even of the officials whose duty it is to carry the law into effect, is universally *held to be controlling.*" (P. 472, 138 U. S.)

In United States v. Burlington & Missouri R. R. Co., 98 U. S. 334, 25 L. ed. 198, (followed in Kansas Ry. Co. v. Atchison Ry. Co., 112 U. S. 414), it was said:

> "Such has been the uniform construction given to the acts by all departments of the government. Patents have been issued, bonds given, mortgages executed and legislation had upon this construction. This uniform action is as potential and as conclusive of the soundness of the construction, as if it had been declared by judicial decision. It cannot at this day be called in question." (P. 341, 98 U. S.)

And in United States v. State Bank, 6 Peters 29, 8 L. ed. 308, it was said:

> "It is not unimportant to state, that the construction which we have given to the terms of the act, is that which is understood to have been practically acted upon by the government, as well as by individuals, ever since its enactment. * * * We think the practice was founded in the true exposition of the terms and intent of the act; but if it were susceptible of some doubt, so long an acquiescence in it would justify us in yielding to it as a safe and reasonable exposition." (P. 39, 6 Peters.)

See also:

United States v. Macdaniel, 7 Peters 1, 8 L. ed. 587;
Hastings & Dakota Ry. Co. v. Whitney, 132 U. S. 357, 10 Sup. Ct. 112, 33 L. ed. 363;
Colorado Coal Co. v. United States, 123 U. S. 307, 8 Sup. Ct. 131, 31 L. ed. 182;
United States v. Winona, St. Peter R. R. Co., 165 U. S. 463, 17 Sup. Ct. 996, 41 L. ed. 1079;
Edwards v. Darby, 12 Wheat. 206, 6 L. ed. 603.

V.

The Treaties of 1863, 1864 and 1867 did not operate to cancel the grant of 1860.

1. *Grant to Minnesota not Impaired by Treaties—No Title to Lands Passed to Indians Thereunder.*

The lands in question were ceded to the United States by the Treaty of 1855. Absolute title vested in the United States; the lands became public lands thereof. In 1860 Congress granted these lands to Minnesota. Following this, the Enlarged Leech Lake and White Earth Reservations were created. This was done by the Treaties of 1863, 1864 and 1867. Included within these reservations were the lands in question. The treaties did not operate to vest title to these lands in the Indians. The treaty-making power lacked authority to make disposition thereof. They, upon and after the passage of the Act of 1860, ceased to be public lands at the disposal of the United States.

In Wright vs. Roseberry, supra, the court said:

> "For the error in holding that the certificate of the comissioner was necessary to pass the title of the demanded premises to the State, the case must go back for a new trial, when the parties will be at liberty to show whether or not the lands in controversy were in fact swamp and overflowed on the day that the Swamp-Land Act of 1850 took effect. If they are proved to have been

such lands at that date, they were not afterwards subject to preemption by settlers. *They were not afterwards public lands at the disposal of the United States.* Parties settling upon such lands must be deemed to have done so with notice of the title of the State, and, after the segregation map was deposited with the Surveyor-General of the State, with notice also that they were actually segregated and claimed by the State as such lands." (P. 521, 121 U. S.)

In M. K. & T. Ry. Co. v. Roberts, 152 U. S. 114, 14 Sup. Ct. 496, 38 L. ed. 377, the court said:

"If the reservation named was intended as a grant of sections sixteen (16) and thirty-six (36) to the territory and to the states to be created out of them, or as a dedication of them for schools it could only apply to such lands as were public lands, for no other lands in our land system are subdivided into sections, nor could it embrace lands which had been set apart and reserved by statute or treaty with them for the use of the Indians, as was the case with the lands involved in this controversy, as we have already shown. As early as 1839 it was held in Wilcox v. Jackson, 38 U. S. 13 Pet. 498: *'That a tract lawfully appropriated to any purpose becomes thereafter severed from the mass of public lands, and that no subsequent law or proclamation will be construed to embrace or operate upon it, although no exception be made of it.'* The reservation referred to there was of land for military purposes; and in Leavenworth, L. & G. R. Co. vs. United States, 92 U. S. 733, it was said that this doctrine 'applies with more force to Indian than to military reservations. The latter,' the court observed, 'are the absolute property of the government. In the former other rights are vested. *Congress cannot be supposed to grant them in a subsequent law, general in its terms. Specific language, leaving no room for doubt as to the legislative will, is required for such purpose.'*" (P. 119, 152 U. S.)

Assuming for the sake of argument that the lands continued to be public lands, notwithstanding the Act of 1860, what authority did the President and the Senate have to pass title thereto to the Indians? We submit that they had none. Exclusive authority to dispose of public lands was in Congress. This was of necessity so by virtue of art. 4, § 3, cl. 2 of the Constitution. And this court has so held in many cases.

We quote from Utah Power & L. Co. vs. United States, 243 U. S. 389, 37 Sup. Ct. 387, 61 L. ed. 791, Mr. Justice Van Devanter speaking for the court, as follows:

> "Not only does the Constitution (art. 4, § 3, cl. 2) commit to Congress the power 'to dispose of and make all needful rules and regulations respecting' the lands of the United States, but the settled course of legislation, congressional and state, *and repeated decisions of this court, have gone upon the theory that the power of Congress is exclusive, and that only through its exercise in some form can rights in lands belonging to the United States be acquired.*" (P. 404, 243 U. S.)

In United States vs. Fitzgerald, 15 Pet. 421, 10 L. ed. 785, the court said:

> "No appropriation of public land can be made for any purpose but by authority of Congress."

But, as just pointed out, the lands in question ceased to be public lands at the disposal of the United States on the passage of the Act of 1860. Conceding that the President and Senate had authority to pass title to lands to the Indians, we contend that such authority was limited to public lands subject to disposal by the United States. The swamp lands having ceased to be such, the treaties did not and could not operate to transfer title thereto to the Indians. Congress had granted them to Minnesota. The treaty-making power surely could not step in and

revoke that grant. If there was power to do this, it was exclusively in Congress. So that the most the Indians obtained under the treaties was title to lands included within the boundaries of the reservations created thereby, save and excepting title to such thereof as were swamp in character.

2. Where parties claim lands under conflicting grants, the one claiming under grant first made has priority of right.

The situation before us seems to be similar to one where parties claim lands under conflicting grants. Viewed in this light, the rule so often announced and applied by this court is invocable, namely, that the one claiming under the grant first made has priority of right.

In the case of Mayor, etc. of New Orleans vs. United States, 10 Peters 662, 34 L. ed. 573, 600, it was said:

> "A grant has been frequently issued by the United States for land which had been previously granted, and the second grant has been held to be inoperative." (P. 730, 10 Pet.).

In the case of Wright vs. Roseberry, supra, we find this language:

> "It would be a most extraordinary doctrine if the holder of a conveyance of land from a State were precluded from establishing his title simply because the United States may have subsequently conveyed the land to another, and especially from showing that years before they had granted the property to the State, and thus were without title at the time of their subsequent conveyance. As this court said in New Orleans v. United States: 'It would be a dangerous doctrine to consider the issuing of a grant as conclusive evidence of right in the power which issued it. On its face it is conclusive, and cannot be controverted; but if the thing granted was not in the

grantor, no right passed to the grantee. *A grant has been frequently issued by the United States for land which had been previously granted, and the second grant has been held to be inoperative'.*" (P. 520, 121 U. S.)

In M. K. & T. Ry. Co. vs. Kans. Pac. Ry. Co., 7 Otto 491, 97 L. ed. 1095, the court said:

> "But so far as the lands were identical with those covered by the previous grant to the plaintiff by the Acts of 1862 and 1864, *the title could not attach, as it had already passed from the Government.*" (P. 500, 7 Otto).

In the case of Lake Superior Ship Canal Railway & Iron Co. vs. Cunningham, 155 U. S. 354, 15 Sup. Ct. 103, 39 L. ed. 183, the court said:

> "*General terms in a subsequent grant are always held to not include lands embraced within the terms of the prior grant.*" (P. 373, 155 U. S.)

In Wilcox v. Jackson, 38 U. S. 13 Pet. 498, 10 L. ed. 264, the court said:

> "But we go further, and say that *whensoever a tract of land shall have once been legally appropriated to any purpose, that moment the land thus appropriated becomes severed from the mass of public lands; and that no subsequent law, or proclamation, or sale, would be construed to embrace it, or to operate upon it, although no reservation were made of it.*" (P. 513, 38 U. S.)

In Leavenworth, etc. Ry Co. vs. United States, 92 U. S. 733, 23 L. ed 634, the court said:

> "Such grants could not be otherwise construed; *for Congress cannot be supposed to have thereby intended to include lands previously appropriated to another purpose,*

> *unless there be an express declaration to that effect. A special exception of it was not necessary; because the policy* which dictated them *confined them to land which Congress could rightfully bestow, without disturbing existing relations and producing vexatious conflicts."* (P. 742, 92 U. S.).

In Shepley vs. Cowan, 91 U. S. 330, 23 L. ed. 424, it was said:

> "In all such cases *the first in time * * * is deemed to be the first in right;"* (P. 338, 91 U. S.)

In United States vs. N. P. Ry Co., 152 U. S. 284, 14 Sup. Ct. 598, 38 L. ed. 443, the court said:

> "But it is well settled that, in respect to the public lands, within, at least, common granted or primary limits, priority of grant, not priority of location, determines the question of ownership, as between parties claiming the same lands under different grants." (P. 298, 152 U. S.).

See also:

Kans. Pac. v. Dunmeyer, 113 U. S. 629, 5 Sup. Ct. 566, 28 L. ed. 1122;

Bardon vs. N. P. Ry. Co., 145 U. S. 535;

Whitney vs. Taylor, 158 U. S. 85, 15 Sup. Ct. 796, 39 L. ed. 906;

Hastings Ry. Co. vs. Whitney, 132 U. S. 357;

Northern Lbr. Co. vs. O'Brien, 204 U. S. 190, 27 Sup. Ct. 249, 51 L. ed. 438;

St. Paul Ry. Co. vs. N. P. Ry Co., 139 U. S. 1, 11 Sup. Ct. 389, 35 L. ed. 77;

Newhall v. Sanger, 92 U. S. 761, 23 L. ed. 769;

N. P. Ry Co. vs. Delacey, 174 U. S. 622, 19 Sup. Ct. 791; 42 L. ed. 1111.

3. *Land Decisions.*

The views just expressed with respect to the operative ef-

fect of the Treaties of 1863, 1864 and 1867 are in harmony with those of the Interior Department as set out in State of Minnesota, 27 L. D. 418, and Rutledge vs. State of Minnesota, 37 L. D. 397. The first of these decisions, rendered in 1898, was as to Minnesota's right to swamp lands in the four ceded townships in the White Earth Reservation; and the second, rendered in 1909, as to Minnesota's right to swamp lands in the Enlarged Leech Lake Reservation. Minnesota's right as against the contention, among others, that the treaties of 1863, 1864 and 1867 operated to defeat the grant, was sustained in each decision; and based on these decisions, the lands in question were patented to Minnesota. Twenty-five years after the rendition of the first of these decisions, and fourteen years after the rendition of the second, the Government instituted this suit. It advances, as one of its contentions, the contention that these treaties operated to defeat the grant. It is our contention that the decisions are correct as a matter of law; but should doubt exist as to this, it is submitted that at this late date these decisions should be followed, particularly in view of all that has been done in reliance thereon; in other words, that the doctrine of practical construction should be invoked.

4. *Was the swamp land grant revocable even by Congress?*

The foregoing has been submitted to a certain extent on the assumption that Congress has power to revoke a grant such as the one herein involved, one *in praesenti*. There is authority to the effect that such a grant is irrevocable even by Congress. We call attention to the case of Rice v. Railroad Co., 66 U. S. (1 Black) 358, where the court said:

> "But the determination of that question in the negative does not necessarily show that the plaintiff is entitled to prevail in the suit, because, if the legal effect of the act of Congress set up in the answer was to grant to the

> Territory a beneficial interest in the lands [as distinguished from a naked trust, see p. 373, 66 U. S.], then it is equally clear that it was not competent for Congress to pass the repealing act, and divest the title; * * *" (P. 373-4, 66 U. S.)

The plaintiff advances the belief, on page 67 of its brief, that the swamp land grant gave no greater rights than did acts relating to grants of school lands. The two are wholly different: the former is a grant *in praesenti*, while the latter are merely promises to make a grant in the future after the lands have been surveyed and identified if they are then available for such purpose.

VI.

The lands in question did not pass to the United States as a result of cessions made pursuant to the Nelson Act (25 Stat. 642), for disposition for the benefit of the Indians or otherwise.

We have just argued that the Treaties of 1863, 1864 and 1867 did not operate to defeat the grant of the lands in question made to Minnesota by the Act of 1860. The Indians did not acquire title to these lands under these treaties. The Nelson Act provided for a cession by the Indians "of all their title and interest in and to" lands in Minnesota. Pursuant thereto, the Indians made cessions to the United States. The cessions conveyed to the United States such title as the Indians had—nothing more. They did not have title to the lands here in dispute, and as a consequence the United States did not acquire, by the cessions, title to such lands, in trust for the benefit of the Indians or otherwise. Assuming, for the sake of argument, that the Indians acquired some interest in the lands, such interest was subject to the grant to Minnesota, for this grant was made prior

to the acquisition of any interest by the Indians; and such interest was extinguished upon issuance of patents to Minnesota, for thereupon the title of the state became perfect and related back to the date of the grant.

VII.

Miscellaneous Contentions Considered.

1. *Diversion of Proceeds Derived from Sale of Swamp Lands.*

Plaintiff contends:

> "If the State originally acquired any rights, inchoate or otherwise, she had forfeited them as to these lands long before any patents issued by a constitutional amendment tying the hands of her legislature and irrevocably diverting the swamp lands and their proceeds from the express purpose for which they were given her by the United States. After the patents issued she again forfeited the lands by actually diverting all the proceeds of these very lands from that purpose." (Page 79, Plaintiff's Brief.)

This contention is answered by the cases of

Emigrant Co. v. County of Adams, 100 U. S. 61, 25 L. ed. 563;

Mills Co. v. Railroad Cos., 107 U. S. 557, 2 Sup. Ct. 654, 27 L. ed. 578;

Hager v. Reclamation District, 11 U. S. 701, 4 Sup. Ct. 663, 28 L. ed. 569;

United States v. Louisiana, 127 U. S. 182, 8 Sup Ct. 1047, 32 L. ed. 66;

King County v. Seattle School District, 263 U. S. 361, 44 Sup. Ct. 127, 68 L. ed. 339.

In the case of United States v. Louisiana the court said:

> "Under the Act of 1850 the swamp lands are to be conveyed to the State as an absolute gift, with a direction that their proceeds shall be applied exclusively, as far as necessary, to the purpose of reclaiming the lands.

> The judgment of the State as to the necessity is paramount, and any application of the proceeds by the State to any other object is to be taken as the declaration of its judgment that the application of the proceeds to the reclamation of the lands is not necessary. By the 2d section of the Act of 1855, it is provided that the purchase money received by the United States for the swamp lands sold by them shall be paid over to the State. There is nothing in these provisions of the character of a property trust, and nothing to prevent the application, by the State, of the swamp land fund to general purposes. If the power exists anywhere to enforce any provisions attached to the grant, it resides in Congress, and not in the court." (P. 191, 127 U. S.).

In the case of King County vs. Seattle School District, the court, speaking through Mr. Justice Butler, said:

> "But, assuming the moneys paid over to the state are charged with a trust that there shall be expended annually one half for schools and one half for roads, the appellee has no right to enforce the trust. Congress alone can inquire into the manner of its execution by the state." (P. 364, 263 U. S.).

Minnesota has, by devoting other funds and adopting other means for the reclamation of swamp lands, determined that the lands themselves and their proceeds are not needed for that purpose. This she had a right to do; and under the rule laid down in United States v. Louisiana, supra, there is no breach of the Act of 1850.

2. *Estoppel.*

Plaintiff's attempt to invoke the doctrine of estoppel against Minnesota must fail; this for the reason that essential elements of estoppel are missing. If estoppel is invocable against any

party to this suit, it is invocable against the United States.

Congress granted the lands to Minnesota in 1860. In 1861 and 1862 negotiations were carried on between the Secretary of the Interior and Minnesota, resulting in an election by Minnesota to abide by the field notes of the Government surveys as determinative of the character of the lands whether swamp or otherwise. Following this, the Secretary of the Interior negotiated the treaties of 1863, 1864 and 1867; and later on the Nelson Act was passed and cessions made thereunder for the purposes therein stated. Plaintiff contends that Minnesota is estopped to assert any claim to the lands in question because she did not "speak out and make known" her claim when the treaties were in the making and the Nelson Act was pending in Congress.

It is elementary that before one can be estopped by silence, he must know of the things that require him to speak. Minnesota knew nothing about these treaties or the negotiations which resulted in the consummation thereof until everything had been closed between the United States and the Indians, and then only constructively. Knowledge of the negotiations and what occurred thereat on the part of Minnesota seems to be predicated on the thought that "The state was an integral part of the United States, which was making those provisions, yet she stood by in absolute silence and saw the Indians give up other and very valuable lands for the lands restored; saw the United States give its solemn pledge that all the lands within the boundaries of the tracts so restored should be Indian reservation lands, etc." (Page 75, Plaintiff's brief). To assert that knowledge of things done by the United States is to be imputed to a state because the state is an "integral part of the United States" is wandering very far afield, especially when the assertion is advanced in support of the application as against the State of the equitable doctrine of estoppel. There was no knowledge on the part of Minnesota of the negotiations in question, and by reason thereof

there can be no estoppel; for without such knowledge, how was Minnesota to know that it should "speak out" in assertion of its rights.

Estoppel is claimed by reason of silence. Silence, to work an estoppel, must result in the concealment of something. What did Minnesota, by her silence, conceal? The only thing possible was her right to swamp lands under the Act of 1860. Was the United States ignorant of this act when it made the treaties in question and when the Nelson Act was passed? The answer to this question must be in the negative. The Act of 1860 was of its own enactment; it stood on its own statute books; it constituted a part of its own published records. Its officer, the Secretary of the Interior, who negotiated the treaties and cessions, was the officer entrusted with the duty of administering the Act of 1860. Before the making of the first treaty in 1863 he had agreed with Minnesota on a plan to be followed in identifying swamp lands within her borders. It seems too clear to admit of any controversy that the so-called silence of Minnesota did not operate to conceal from the United States its right to the lands. The United States was fully cognizant at all times of this right. It negotiated with the Indians and made deals with them in utter disregard of the right of Minnesota, notwithstanding full knowledge with respect thereto. Now it asserts that Minnesota is estopped to lay claim to the lands because of silence. The silence concealed nothing, and the doctrine of estoppel cannot therefore be invoked. And the United States, as between the Indians and Minnesota, throughout the negotiations in question was the guardian of the Indians; so, as between the Indians and Minnesota, in what better position are the Indians than the United States when it comes to a consideration of the invocability of the doctrine of estoppel as against Minnesota? We submit, no better.

Estoppel is invocable with respect to silence only where

there is silence as to a pertinent and important fact. In the matter before us it cannot be contended for a moment that Minnesota concealed from anyone a single fact. All facts were known to the Federal Government. Any statement by Minnesota as to its claim to the lands in question could not have added one fact to those that were already disclosed by the records of the Federal Government.

The Government claims that Minnesota should have raised her voice in protest when the treaties were in the making. Minnesota could have done this only through one of her officers. The negligence or omissions of public officers as to their public duties will not work an estoppel against the state. But no such duty was imposed upon any officer of the state; and so far as the United States and the Indians were concerned, it was not incumbent upon any officer to protest, for the reason, if for no other, that no officer was given an opportunity to do so. To make silence of a party operate as an estoppel, the circumstances must have been such as to render it his duty to speak, and there must have been an opportunity to speak. There was neither duty nor opportunity to speak in the situation before us. The lands were granted to Minnesota by the Congressional Act of 1860. Was it thereafter incumbent upon Minnesota to watch every move of the Federal Government to see that nothing was done adversely affecting the grant? Should it have had agents in Washington specially charged with the duty of spying on the Secretary of the Interior, so that, should he make a move deemed detrimental to the interests of the state, the state might "speak out and make known" its claim? The Act of 1860 denoted by its terms a present grant. Was that not enough to justify Minnesota in the belief that the grant was secure? She had already entered into an agreement with the Secretary of the Interior to abide by the field notes of the Government surveys as determinative of the lands to which she would be entitled. In view of

this, did she not have a right to assume that the agreement would be respected and that she would get all lands shown to be swamp by the field notes? Did she not have a right to assume that the Secretary of the Interior would not give or attempt to give, so soon after the grant and the making of this agreement, swamp lands to someone else without notifying her of the contemplated move, and without giving her an opportunity to be heard? The United States in negotiating these treaties led the Indians to believe, according to plaintiff's brief, that they would obtain title to the lands in question. Minnesota was given no notice of these negotiations; was given no opportunity to be heard. She was treated as an outsider, as a total stranger to the negotiations. She knew nothing about them, and was under no duty or obligation to know anything about them. And now the Government asserts that Minnesota can make no claim to the lands because she was silent during the making of these treaties. It is self-evident, it seems to us, that estoppel cannot be invoked, under the circumstances, against Minnesota, either in behalf of the United States or in behalf of the Indians.

There was nothing in the Nelson Act to arouse suspicion. In fact, it seems to have been worded by the author with the grant of swamp lands to Minnesota in mind. It provided for negotiations with the Indians, looking toward a cession by them "of all their title and interest in and to" lands in Minnesota. It is difficult to see how the language could have been improved upon had Minnesota been present during the pendency of the legislation in Congress, insisting that nothing be done adversely affecting the grant of swamp lands to her.

If estoppel is invocable at all in this case, it is invocable in behalf of Minnesota against plaintiff. Congress made a grant to Minnesota in 1860. In 1861 and 1862, the Secretary of the Interior induced Minnesota to agree to abide by the field notes of the Government surveys. In 1863, 1864 and 1867, the Secre-

tary of the Interior negotiated treaties with the Indians leading them to believe, according to plaintiff's brief, that they were getting all lands within certain boundaries. It is said that in the negotiations following the Nelson Act of 1889 the Indians were led to believe that all lands within the reservations involved were to be sold by the United States for their benefit. The lands were thereafter surveyed by the Government with resultant disclosures of the swamp lands in question. Following these surveys, Minnesota, by reason of her election to abide by the field notes, was given her first opportunity to lay claim to these lands; and she took advantage of the opportunity, with the result that the Government patented the bulk of them to her. This was done only after hearings before the Secretary of the Interior; and only after a full consideration of practically every point the Government makes in this suit in an attempt to secure a recovery against Minnesota. Following the issuance of these patents, the Government stood by while Minnesota spent many thousands of dollars in the handling of these lands; stood by while Minnesota sold the bulk of the lands, placing the proceeds of the sale beyond recall pursuant to a constitutional amendment adopted in 1881; stood by while Minnesota spent millions of dollars in improving these lands; and now, many years after all these transactions, comes forth with the claim that it erred in patenting the lands to Minnesota and asks for a recovery from Minnesota of the value of the lands sold by her and a cancellation of patents to lands not yet sold. We say that if a course of action and conduct ever furnished the basis for the invocation of the doctrine of estoppel, we have such a course of action and conduct in this case. If the United States were an individual, manifestly the doctrine would be invoked against it; perhaps it is anyway, for, as said in plaintiff's brief:

> "It may not here be said that the principle of estoppel does not apply to the sovereign. The United States was

> a sovereign; the Indian tribe was recognized as so far sovereign that treaties and collective agreements might be made with it. The state, too, was a sovereign; and as beween self-respecting independent sovereigns, at least, an estoppel growing out of such conduct would be enforced in the last resort by war, if there was no tribunal competent to declare an enforcement." (Page 76, Plaintiff's Brief.)

3. *Equities.*

Plaintiff contends that the equities are overwhelmingly in favor of the Indians. This might be true were the controversy one between the Indians and the United States. As to Minnesota the contention is without the slightest merit.

Plaintiff reviews rather exhaustively negotiations carried on between the Government and the Indians and contends that these show many instances of the practice of deceit and fraud by the Government upon the Indians. These, it is said, establish equities in favor of the Indians and against Minnesota.

Reference is made to the Treaties of 1847 (9 Sta. 908) and 1848 (9 Stat. 952), and it is asserted that the Government breached faith with the Indians relative thereto. It is contended that the Indians were not treated fairly during the negotiations leading up to the Treaty of 1855. Attention is called to the building of dams by the Government at Leech, Cass and Winnibigoshish Lakes, with resultant loss to the Indians of their gardens, rice fields, hay crops, grave yards, etc.; and breach of faith is charged because the Indians were not consulted prior to the construction of these dams. It is said that the Government failed to pay annuities provided for by certain of the treaties, at least not until 1890. Assuming all that plaintiff says with respect to these matters to be true, on what possible theory can it be argued that equities exist by reason thereof in favor of the Indians against Minnesota? The Treaties of 1847 and 1848 were made and the negotiations resulting in the Treaty of 1855

occurred before Minnesota had become a state. As to all of the aforementioned dealings with the Indians, Minnesota had absolutely nothing whatsoever to do. If equities exist by reason thereof, they exist in favor of the Indians against the United States, but not against Minnesota.

With respect to the Treaties of 1863, 1864, 1867 and the Nelson Act, plaintiff, at pages 40 and 41 of its brief, says:

> "From the foregoing narrative it is abundantly demonstrated that the United States, by the treaties of 1863-4 and 1867, stipulated in absolute and unqualified terms that all the lands within the boundaries of the enlarged Leech Lake and the White Earth reservations were set aside for the Indians; and that in the agreement under the Nelson Act it again solemnly stipulated that all the land then ceded from those and other reservations should be disposed of for the benefit of the Indians, with the single exception above stated. When, therefore, the officials of the Government patented the swamp lands to the State, it was in direct violation of solemn treaty engagements, a breach of faith which at this late day the United States in this suit seeks to repair and make good. It was a breach of faith, whether the United States promised what it had power to perform and did not, or whether through ignorance of the law or thoughtless indifference it made promises it could not perform, because the swamp lands had already passed beyond its control."

If it be true that the Government led the Indians to believe that the Treaties of 1863, 1864 and 1867 operated to give them title to all lands within the boundaries of the reservations created thereby, and that all these lands would be sold under the Nelson Act for their benefit, the Government misled them. Representations impossible of fulfillment were made. This was later recognized when the Government patented the lands in question to Minnesota. But plaintiff argues, conceding all this, that the Government breached faith with the Indians in patenting the

lands to Minnesota. Why should this breach of faith be charged against Minnesota; and how can it be set up as an equity in favor of the Indians against Minnesota? Minnesota made no representations of any kind to the Indians; had nothing to do with the Indians. Transactions with the Indians were all carried on by the Government. Minnesota was a stranger to the whole business. All she did was to lay claim to the lands and prosecute her case before the Interior Department. The result was the issuance of patents to her. There is no charge of bad faith or fraud on the part of Minnesota. Minnesota acted in entire good faith and proceeded in the customary way with respect to securing patents to the lands. The failure of the Government to make good its representations to the Indians establishes an equity in favor of the Indians against the Government, but manifestly, not against Minnesota.

The government's case on the merits upon final analysis amounts simply to this: The United States led the Indians to believe, during negotiations leading up to the making of the treaty of 1867, that they were to acquire under that treaty all lands included within the boundaries of the reservations created thereby; and in the negotiations following the Nelson act that all these lands, save those withheld for allotment purposes, were to be sold under that act for their benefit. Later the United States breached faith with the Indians by patenting some of the lands, though swamp in character, to Minnesota. Faith was breached because the United States had made promises which she was unable to carry out; she had granted the lands to Minnesota prior to the making of these promises. The United States, as stated in her brief, is prosecuting this suit to right the wrong done the Indians. It is impossible for us to see just why Minnesota, an innocent bystander, should respond to the Indians in damages or otherwise for the wrong perpetrated upon them by the United States. We submit that the wrong should be

remedied by the one responsible therefor, the United States.

CONCLUSION

It is respectfully submitted that the bill should be dismissed on the ground that the court is without jurisdiction to entertain the suit; and, if not on that ground, then on the ground that the suit is without merit.

If, however, the bill is not dismissed, then the state submits that the damages awarded for lands sold by the state must be limited to $1.25 an acre, and damages for timber to the value of that timber as of the time of the cession by the Indians under the Nelson Act. This principle is established by the case of United States v. Mille Lacs Band of Chippewa Indians, 229 U. S. 498, where the court says:

> " * * * It is well to observe that the damages should be assessed on the basis of the prices which would have been controlling had the act of 1889 been rightly applied." (P. 510, 229 U. S.).

The United States had power to sell the timber immediately after the cession by the Indians under the Nelson act. It cannot be presumed that it would have delayed such sale until the time when Minnesota sold the timber, after patents to her. Any damage based on an increase in value of the timber, after the accrual of the right of the Government to sell it, must therefore be purely speculative. The only possible basis in law for the ascertainment of that damage is the value of the timber at the time of the cession.

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APPENDIX

"The grant thus made to Minnesota and Oregon has been held to be a present one. (Decision of the Department, State v. Stott, et al., and State v. Preemptors, supra, December 4, 1877; Copps L. O. p. 149, January 1878; and Gaston v. State, 5 Oregon, 59).

"The grant of 1850 had been treated as a present one, and generally understood to be such long prior to 1860.

"In extending the grant to Minnesota and Oregon, Congress knew perfectly well it was thus sustaining a grant in praesenti."

Crawley v. Oregon, 7 Copp's L. O. 28 (1880).

"March 27, 1926 (22 L. D., 388), the Department rendered a decision adverse to the claim of the State to swamp lands in the Red Lake reservation, without therein passing upon its claim to such lands in the White Earth reservation.

"The Department is in receipt of your office letter of April 30, 1898, calling attention to the fact that your office is not able to take any action in reference to opening or offering for sale the lands in the four ceded townships of the White Earth reservation, under the act of January 14, 1889 (25 Stat., 642), because of the pendency before the Department of the State's claim to swamp lands therein.

"It is shown by the letter of the Commissioner of Indian Affairs dated June 20, 1894, and by the letter of your office dated March 6, 1896, that the four townships of the White Earth reservation now in question were unappropriated public lands, free from any Indian claim, at the date of the swamp land grant to Minnesota, March 12, 1860 (12 Stat., 3), and that they were reserved for the benefit of the Indians under the treaties of May 7, 1864 (13 Stat., 693), and March 19, 1867 (16 Stat., 719).

"The question arises whether, after the date of the

swamp land grant to the State, these lands could be lawfully reserved by the United States and disposed of for the benefit of the Indians, so as to defeat the swamp land grant.

"The act of March 12, 1860, extended the provisions of the act of September 28, 1850 (9 Stat., 519), to the States of Minnesota and Oregon, subject to the exceptions contained in the following proviso to the act of 1860.

" 'Provided, That the grant hereby made shall not include any lands which the government of the United States may have reserved, sold or disposed of (in pursuance of any law heretofore enacted) prior to the confirmation of title to be made under the authority of the said act.'

"The state calls attention to various judicial interpretations of the act of September 28, 1850, granting swamp and overflowed lands to the State of Arkansas (9 Stat., 519), in which by the courts and by the Department it has been held that said grant was a present one, and prevented other disposition of lands of this class, after the date of the grant. That such is the construction placed upon said act is conceded, and no discussion of the cases cited by the State seems necessary.

"If the act of 1860, notwithstanding its proviso, receives the same construction as the act of 1850, the proviso will be rendered nugatory and of no effect. This would violate well established rules of interpretation, and would defeat the will of Congress as expressed in the proviso.

"Construing the act of 1850, and the act of 1860, together as one act of the latter date, it would still be a grant in presenti of all swamp lands in the State, excepting those reserved, sold or disposed of by the United States, in pursuance of a law theretofore enacted, prior to confirmation of title under the swamp land grant.

"Was the reservation of these four townships made before the confirmation to the State of title under the swamp land grant? The issuance of patent is the final

and only act of confirmation of title under the swamp land grant, and as no patent has yet issued for any of these lands it follows that the reservation was made before the title of the State to any of the lands therein was confirmed.

"Were these four townships reserved in pursuance of any law enacted prior to the act of 1860? As before stated, they were unappropriated lands at that time and were subsequently reserved by the treaties of 1864 and 1867. Those treaties do not purport to have been made in pursuance of any prior law nor do they purport to have followed any prior law in providing for the reservation of these lands. While statutes are sometimes enacted providing for or looking toward the negotiation of a treaty, the authority of the President and Senate in negotiating and ratifying treaties is not dependent upon the existence of any such statute, and the treaties when made become effective and of force not by reason of any statute theretofore enacted, but by reason of the action of the President and Senate in adopting them. The act of December 19, 1854 (10 Stat., 598), 'to provide for the extinguishment of the title of the Chippewa Indians,' etc., in pursuance of which your office suggests that these treaties were negotiated and these lands reserved, did not contemplate the creation of a reservation such as the White Earth reservation. It provided for securing an extinguishment of the Chippewa title to lands in Minnesota and Wisconsin, one of the terms of which extinguishment was to be:

granting to each head of a family, in fee simple, a reservation of eighty acres of land, to be selected in the territory ceded, * * * which said reservations shall be patented by the President of the United States.

"This act thus contemplated eighty acre reservations in the nature of individual allotments in fee simple to be patented to the heads of families and held by them in severalty, but it contained no reference to the creation of a reservation of any other character. The treaties of 1864 and 1867 made no provision for small or eighty acre reservations or allotments of ceded lands to be patented

and held in severalty, but did provide for a single resercation embracing a large area of land to be held by the Indians as a tribal reservation. Under these circumstances it can not be said that the White Earth reservation, embracing these four townships, was established in pursuance of the act of 1854 or of any other law enacted prior to the swamp land grant to Minnesota. These four townships being unappropriated public lands at the date of that grant were subject to disposal by Congress, and upon the passage of the act of March 12, 1860, the right of the State attached to all the swamp lands therein, subject alone to the exceptions made in the proviso to that act and, as hereinbefore shown, the reservation subsequently made for the benefit of the Indians does not come within those exceptions.

"The subsequent act of January 14, 1889 (25 Stat., 642), does not come within the terms of the proviso and can not defeat the prior grant to the State of the swamp lands in these townships, so it follows that the lands in said townships can only be disposed of according to the act of 1889, after eliminating the swamp lands therefrom.

"Your office is directed to take the necessary steps to eliminate from the other lands in the townships named such lands as were swamp or overflowed at the date of the swamp land grant to the State of Minnesota, and to that end you will notify the State that its right to such lands is recognized, and a reasonable time will be allowed it to make its selections, subject to the approval of your office, after the expiration of which time your office will proceed to dispose of the residue of the lands in said townships in accordance with the provisions of the act of January 14, 1889."

State of Minnesota, 27 L. D. 418. (1889).

"This department has held so frequently that reference to authority is unnecessary that the Act of September 28, 1850, was a present grant, vesting in the state from the day of its date the title to all the swamp and over-

flowed land then not sold and requiring nothing but the determination of boundaries to make it complete. That being true it is evident that the Act of March 12, 1860, supra, is of the same character, and from the date of its passage vested in the state of Oregon the title to all the swamp lands within its limits. It follows, therefore, that the lands in question, being evidently of that character, passed to the state under that grant, and hence could not have been passed under the agricultural college grant of July 2, 1862, supra."

State of Oregon, 23 L. D. 460 (1896).

"The Act of March 12, 1860, supra, was a present grant, and operated to transfer, as of that date, to the state of Minnesota, all of the swamp and overflowed lands in the state rendered thereby unfit for cultivation, it only being left to identify the lands granted."

State of Minnesota, 32 L. D. 65 (1903).

"The uniform holding of the supreme court has been that the swamp land grant was one in praesenti of all land then of the character granted, lacking only identification to complete the right of the state to the land so granted.

"This construction is the one unvaryingly adhered to by the court from its decision in Railroad Company v. Fremont County (9 Wall. 89), to the present time, in many fully-considered decisions, and is not longer subject of doubt or question. Upon similar facts, in State of Minnesota (27 L. D. 418), the department held that swamp lands within the White Earth reservation passed to the state under its grant.

"Title having passed to the state by the grant, the subsequent reservation did not affect the state's right, though it might delay the identification of the granted

land. When such identification is made, the right of the state becomes complete.

"I am therefore of opinion that upon the facts presented lands swamp and overflowed and unfit thereby for cultivation, not reserved or granted by the United States, March 12, 1860, passed to the state by its grant, and as property of the state are excepted from the provisions of the Act of January 14, 1889. This does not include sections sixteen and thirty-six (see opinion of this date involving status of the four ceded sections in the White Earth reservation)."

State of Minnesota, 32 L. D. 328. (1903).

"The question presented is: When does the title of the state become 'confirmed' within the meaning of the act, so that its right is established to receive legal title by issue of a patent? This must be determined by the character and terms of the grant. That the swamp land grant was a grant of title in praesenti, as of the date of the act, of all lands then of that character, has been so clearly and unvaryingly held as not to require citation of authority. But such grant being indeterminate as to the description and identification of the particular lands it was provided that lands disposed of pursuant to any law theretofore enacted, prior to confirmation of the title under this act, should be excepted from its operation."

State of Oregon, et al., v Frakes, 33 L. D. 101 (1904).

"The land involved herein was ceded to the United States by the Chippewa Indians by the treaty of February 22, 1855 (10 Stat., 1165), and included within the exterior boundaries of the tract subsequently reserved for said Indians by the treaties of May 7, 1864, proclaimed March 20, 1865 (13 Stat., 693), and March 19, 1867 (16 Stat., 719.) It was selected May 29, 1905, in Minnesota Swamp Land List No. 154."

* * *

"While the appeal contains a number of specifications of error, it is necessary to consider only the following, as their determination must control the conclusion to be reached herein.

"First: That all the treaties and proceedings looking to the disposition of these lands were made pursuant to the law of December 19, 1854 (10 Stat., 598), and the said lands were, therefore, excepted from the operation of the swamp land act.

"Second: That the swamp land act lapsed and became of no effect, as to the land involved, because the State failed to claim or select the same within the time specified in the act.

"Third: That the State of Minnesota ratified the act of the United States in disposing of the lands involved by the treaties of 1864 and 1867, supra, and confirmed said acts; that the State, having received the benefits of said acts, is estopped to deny their full force and effect.

"The land in question having been ceded by the Chippewa Indians to the United States by the treaty of 1855, supra, and thus being clearly public land of the United States at the date of the passage of the act of March 12, 1860 (12 Stat., 3), if swampy in character, passed to the State by virtue of its grant, unless excepted therefrom by the terms of the grant itself.

"The appellant claims that the swamp land act contains two provisions, both of which serve to except the land involved from the operation of the grant: first, the government has reserved or made other disposition of the land, within the meaning of the proviso to the first section of the act of 1860; and, second, that the land was not selected within two years after survey.

"These questions have been heretofore specifically considered by this Department and a conclusion reached contrary to the appellant's contention. In the case of the State of Minnesota (27 L. D. 418), it was plainly held that the treaties of 1864 and 1867 were not made in pursuance of the act of 1854, and that the act of January 14, 1889 (25 Stat., 642), which provides for the disposition of these lands, does not come within the

terms of the proviso, and cannot defeat the prior grant to the State. See also 32 L. D., 328, and 2 Copp's Public Land Laws, 1081."

* * *

"The effect of the proviso respecting the making of selections within two years after survey, was most carefully considered by this Department during the year 1906, upon a question presented by the Secretary of Agriculture, and, in view of the importance of the matter, the question was referred to the Attorney-General for his opinion. On June 15, 1906, the Attorney-General advised this Department that the proviso in question was not a condition or limitation of the grant, but merely a direction to the Secretary of the Interior. (See 25 Opinions Attorney-General, 626).

"It will be observed that this opinion supports the views expressed by Secretary Schurz in a communication addressed to the Commissioner of the General Land Office on December 4, 1877 (2 Copp's Public Land Laws, 1081)."

Rutledge v. State of Minnesota, 37 L. D. 397 (1909).

SUPREME COURT OF THE UNITED STATES.

No. 17, Original.—October Term, 1925.

The United States of America,
Complainant,
vs.
The State of Minnesota.

[March 1, 1926.]

Mr. Justice Van Devanter delivered the opinion of the Court.

This is a suit in equity brought in this Court by the United States against the State of Minnesota to cancel patents issued to her for certain lands under the swamp land grant, or, where the State has sold the lands, to recover their value and to leave the patents uncanceled as to such lands. Seven patents for about 153,000 acres are brought in question. The first was issued May 13, 1871, and the others at different times from May 17, 1900, to June 10, 1912. The bill was filed May 7, 1923. The State answered, and the case was heard and submitted on the pleadings and much documentary evidence. The issues presented are chiefly of law.

It is not questioned that the lands were swampy and in this respect within the swamp land grant, nor that the patents were sought by the State and issued by the land officers in good faith. But it is insisted, on behalf of the United States, first, that by treaties and other engagements with the Chippewa Indians entered into before the patents were issued the United States became obligated to apply the lands and the proceeds of their sale exclusively to the use, support and civilization of the Chippewas, and that this operated to exclude or withdraw the lands from the swamp land grant; secondly, that the State failed to select or claim the lands within the period prescribed in the act making the grant, and thereby lost any right which she may have had to have them patented to her; and, thirdly, that the grant was subject to a condition whereby the State was required to apply the lands or

the proceeds of their sale in effecting their reclamation by means of needed ditches, and that before the patents were issued the State, by an amendment to her constitution, had disabled herself from complying with that condition and proclaimed her purpose to apply the lands and their proceeds otherwise, and thereby had lost any right she may have had to receive the patents. Stating it in another way, the insistence, on the part of the United States, is that the lands were appropriated or set apart for the Chippewas, that the land officers, misconceiving their authority in the premises, issued the patents contrary to the provisions of the act making the swamp land grant and in disregard of obligations to the Indians which the United States had assumed and was bound to respect, that those obligations are still existing and must be performed, and that to enable the United States to proceed with their performance it is entitled to a cancelation of the patents as respects such of the lands as still are held by the State and to recover the value of such as she has sold.

Besides disputing the several contentions just stated, the State advances two propositions, either of which her counsel conceive must end the case.

The first proposition is that the suit is essentially one brought by the Indians against the State, and therefore is not within the original jurisdiction of this Court. In support of the proposition it is said that the United States is only a nominal party—a mere conduit through which the Indians are asserting their private rights,—that the Indians are the real parties in interest and will be the sole beneficiaries of any recovery, and that the United States will not be affected whether a recovery is had or denied.

It must be conceded that, if the Indians are the real parties in interest and the United States only a nominal party, the suit is not within this Court's original jurisdiction. *New Hampshire* v. *Louisiana,* 108 U. S. 76; *Hans* v. *Louisiana,* 134 U. S. 1; *North Dakota* v. *Minnesota,* 263 U. S. 365, 374-376. But the allegations and prayer of the bill—by which the purpose and nature of the suit must be tested—give no warrant for saying that the Indians are the real parties in interest and the United States only a nominal party. At the outset the bill shows that the Indians although citizens of the State, are in many respects, and particularly in their relation to the matter here in controversy, under the guardian-

ship of the United States and entitled to its aid and protection. This is followed by allegations to the effect that the Indians had an interest in the lands before and when they were patented to the State, that the patents were issued by the land officers without authority of law and in violation of an existing obligation of the United States to apply the lands and the proceeds of their sale exclusively to the use and benefit of the Indians, and that it is essential to the fulfillment of that obligation that the lands—or, where any have been sold, their value in their stead—be restored to the control of the United States. And the prayer is for a decree compelling such a restoration and declaring that the lands and monies are to be held, administered and disposed of by the United States conformably to that obligation.

Whether in point of merits the bill is well grounded or otherwise, we think it shows that the United States has a real and direct interest in the matter presented for examination and adjudication. Its interest arises out of its guardianship over the Indians and out of its right to invoke the aid of a court of equity in removing unlawful obstacles to the fulfillment of its obligations; and in both aspects the interest is one which is vested in it as a sovereign. *Heckman* v. *United States,* 224 U. S. 413, 437-444; *United States* v. *Osage County,* 251 U. S. 128, 132-133; *La Motte* v. *United States,* 254 U. S. 570, 575; *Cramer* v. *United States,* 261 U. S. 219, 232; *United States* v. *Beebe,* 127 U. S. 338, 342-343; *United States* v. *New Orleans Pacific Ry. Co.,* 248 U. S. 507, 518. And see *United States* v. *Nashville, Chattanooga & St. Louis Ry. Co.,* 118 U. S. 120, 126; *In re Debs,* 158 U. S. 564, 584.

Counsel for the State point out that the Indians could neither sue the State to enforce the right asserted in their behalf nor sue the United States for a failure to call on the State to surrender the lands or their value; and from this they argue that the United States is under no duty and has no right to bring this suit. But the premise does not make for the conclusion. The reason the Indians could not bring the suits suggested lies in the general immunity of the State and the United States from suit in the absence of consent. Of course the immunity of the State is subject to the constitutional qualification that she may be sued in this Court by the United States, a sister State, or a foreign State. *United States* v. *Texas,* 143 U. S. 621, 642, *et seq.* Otherwise her immunity is like that of the United States. But immunity from suit is not

based on and does not reflect an absence of duty. So the fact that the Indians could not sue the United States for a failure to demand that the State surrender the lands or their value does not show that the United States owes no duty to the Indians in that regard. Neither does the fact that they could not sue the State show that the United States is without right to sue her for their benefit. But it does make for and emphasize the duty, and therefore the right, of the United States to sue. This is a necessary conclusion from the ruling in *United States* v. *Beebe, supra,* where much consideration was given to the duty and right of the United States in respect of the cancelation of patents wrongly issued. This Court there pointed out special instances in which the government might with propriety refrain from suing and leave the individuals affected to settle the question of title by personal litigation, and then said that where the patent, if allowed to stand "would work prejudice to the interests or rights of the United States, or would prevent the Government from fulfilling an obligation incurred by it, either to the public or to an individual, which personal litigation could not remedy, there would be an occasion which would make it the duty of the Government to institute judicial proceedings to vacate such patent."

The State's second proposition is that the suit is barred by the provision in the Act of March 3, 1891, c. 561, sec. 8, 26 Stat. 1095, 1099 (also c. 559, p. 1093), limiting the time within which the United States may sue to annul patents, and, if not by that provision, then by a law of the State. But both branches of the proposition must be overruled. The provision in the Act of 1891 has been construed and adjudged in prior decisions—which we see no reason to disturb—to be strictly a part of the public land laws and without application to suits by the United States to annul patents, as here, because issued in alleged violation of rights of its Indian wards and of its obligations to them. *Cramer* v. *United States, supra,* p. 233; *La Roque* v. *United States,* 239 U. S. 62, 68; *Northern Pacific Ry. Co.* v. *United States,* 227 U. S. 355, 367. And it also is settled that state statutes of limitation neither bind nor have any application to the United States when suing to enforce a public right or to protect interests of its Indian wards. *United States* v. *Thompson,* 98 U. S. 486; *United States* v. *Nashville, Chattanooga & St. Louis Ry. Co., supra,* pp. 125-126; *Chesapeake & Delaware Canal Co.* v. *United States,* 250 U. S. 123, 125.

We come therefore to the merits, which involve a consideration of the past relation of the Indians to the lands and of the nature and operation of the swamp land grant to the State.

The lands are all within the region formerly occupied by the Chippewas. By a treaty made in 1837 the Indians ceded the southerly part of that region to the United States, 7 Stat. 536; and by a treaty made in 1855 they ceded to it a further part adjoining that ceded before, 10 Stat. 1165. But by the latter treaty nine reservations were set apart out of the ceded territory as "permanent homes" for designated bands. Four of these reservations were called the Mille Lac, the Leech Lake, the Winnibigoshish and the Cass Lake. This was the situation in 1860 when the swamp land grant theretofore made to other States was extended to Minnesota. Most of the lands in question are within what was then ceded territory and outside those reservations. The rest are within the Mille Lac, Leech Lake, Winnibigoshish and Cass Lake reservations as then defined.

By a treaty made in 1863 six of the reservations, including the Mille Lac but not the Leech Lake, the Winnibigoshish or the Cass Lake, were ceded to the United States, and a large reservation surrounding the Leech Lake, the Winnibigoshish and the Cass Lake reservations, was set apart as "future homes" for the Indians then on the ceded reservations, 12 Stat. 1249. The twelfth article of that treaty declared that the Indians were not obligated to remove from the old reservations to the new until certain stipulations respecting preparations for their removal were complied with by the United States. The United States complied with the stipulations and most of the Indians on the ceded reservations other than the Mille Lac removed, but some remained on and around those reservations. The same article declared: "Owing to the heretofore good conduct of the Mille Lac Indians [the band occupying the ceded Mille Lac reservation], they shall not be compelled to remove as long as they shall not in any way interfere with or in any manner molest the persons or property of the Whites." Some of the Mille Lac band removed, but many remained on and around the ceded reservation. A treaty negotiated in 1864 and amended and ratified in 1865 enlarged the large reservation set apart in 1863, 13 Stat. 693. By a treaty made in 1867 the greater part of the large reservation set apart in 1863 and enlarged in 1865 was ceded to the United States and an area of approximately 36 townships

around White Earth Lake was set apart as a new reservation, to which the Indians in the ceded territory were to remove, 16 Stat. 719. That treaty left the Leech Lake, Winnibigoshish and Cass Lake reservations within what remained of the large reservation established in 1863 and 1865. After the White Earth reservation was created many of the Indians in the ceded territory removed to it, but some remained on or around the ceded tracts. By executive orders made in 1873, 1874 and 1879 additions were made to some of the reservations. The next change came in 1889.

Under the Act of January 14, 1889, c. 24, 25 Stat. 642, the Chippewas ceded and relinquished to the United States all of their reservations, here described as then existing, save as a part of the White Earth reservation was set aside for allotments in severalty which were to be made by the United States and accepted by the Indians as their homes. The cession was declared to be for the purposes and on the terms stated in that Act and was to become effective on the President's approval, which was given March 4, 1890. The Act provided that the lands so ceded should be surveyed, classified as pine or agricultural and disposed of at regulated prices, and that the net proceeds should be put into an interest-bearing fund of which the Chippewas were to be the beneficiaries.

The Mille Lac reservation, although included in the cession of 1863, was again included in the cession under the Act of 1889. It was surveyed and opened to settlement and disposal under the public land laws after the cession of 1863; but this led to a controversy with the Indians over the meaning and effect of the clause in the twelfth article of the treaty of 1863, relating to the removal of the Mille Lac band, and that controversy resulted in a suspension of disposals. The controversy continued up to the cession under the Act of 1889 and was adjusted and composed in that cession. *United States* v. *Mille Lac Chippewas*, 229 U. S. 498. But after the survey and before the suspension about 700 acres,* shown by the field notes of the survey to be swampy, were patented to the State under the swamp land grant. The patent of May 13, 1871, was for these lands.

*This may include one or two small subdivisions which had been patented theretofore to a Mille Lac chief, Shaw-vosh-kung, under the first article of the treaty of 1865.

In 1909, under a permissive statute, c. 126, 35 Stat. 619, the Mille Lac band brought a suit against the United States in the Court of Claims to recover for "losses sustained by them or the Chippewas of Minnesota" by reason of the opening of the Mille Lac reservation to settlement and disposal. In that suit recovery was sought in respect of all lands in that reservation which the United States had disposed of otherwise than under and in conformity with the Act of 1889, including those patented to the State as swamp lands May 13, 1871. Evidence was introduced showing the lands so patented and their value, and one of the questions discussed in the briefs and pressed for decision at the final hearing was whether the Indians were entitled to recover in respect of the lands in that patent, or were precluded therefrom by a provision in the Act of 1889, as accepted by the Indians, which the United States insisted had operated to confirm the State's claim under the patent. By the ultimate findings and judgment that controversy was resolved against the Indians and in favor of the United States. 51 Ct. Cls. 400. No appeal was taken from that judgment and it became final. It awarded about $700,000 to the Indians on account of the disposal of other lands, held not within the confirmatory provision, and the award was paid by putting the money in the Chippewa fund before mentioned, c. 464, 39 Stat. 823. Of course, the United States is without right to any recovery here in respect of the lands as to which it was adjudged there to be free from any obligation or responsibility to the Indians. So the lands in the patent of May 13, 1871, need not be considered further.

The other reservations were surveyed after the cession under the Act of 1889. The field notes of the survey showed some of the lands to be swampy, and 152,124.18 acres so shown were patented to the State under the swamp land grant. They are the lands for which patents were issued from May 17, 1900, to June 10, 1912. Of these lands 706 acres were within the Leech Lake, Winnibigoshish and Cass Lake reservations as defined and existing in 1860, when the swamp land grant was extended to the State, and the others are lands which had been ceded by the treaty of 1855 and were public lands in 1860.

In the brief on behalf of the United States an effort is made to overcome the cession in the treaty of 1855 by inviting attention to particular statements in correspondence and other papers of that

period and arguing therefrom that the treaty was hastily negotiated with chiefs and warriors, not fairly representative of the bands affected, who were brought to Washington for the purpose and were there subjected to influences and pressure which prevented them from exercising a free judgment and adequately portraying and protecting the interests of such bands. But we think the argument is without any real basis in fact. The inferences sought to be drawn from the statements to which attention is invited are refuted rather than supported by the papers as a whole. While it appears that there was some dissatisfaction with the original selection of those who were to represent the Indians, it also appears that other chiefs and warriors representing the Indians who were dissatisfied were sent to Washington by the local superintendent of Indian affairs and that they actively participated in the negotiations and signed the treaty. The negotiations occupied ten sessions spread over a period of seven days and were reported. The reports indicate that the Indians who participated ably and loyally represented all the bands and spoke for them openly and with effect. Indeed, they persuaded the representatives of the United States to make concessions advantageous to all the bands which were much more favorable than those first proposed. They included headchiefs, subchiefs and warriors, 16 in all. Several had represented these Chippewas in making earlier treaties, and afterwards came to represent them in making others.

But, while the earnestness of counsel has induced us to examine the basis of the argument advanced, there is another reason why the effort to overcome the cession must fail. Under the Constitution the treaty-making power resides in the President and Senate, and when through their action a treaty is made and proclaimed it becomes a law of the United States, and the courts can no more go behind it for the purpose of annulling it in whole or in part than they can go behind an act of Congress. Among the cases applying and enforcing this rule some are particularly in point here. In *United States* v. *Brooks*, 10 How. 442, where a grant made to certain individuals by the Caddo Indians in a treaty between them and the United States was assailed by the United States as induced by fraud practiced on the Indians, the Court held that "the influences which were used to secure" the grant could not be made the subject of judicial inquiry for the purpose

of overthrowing the treaty provision making it. In *Doe* v. *Braden*, 16 How. 635, a provision in the treaty whereby Spain ceded Florida to the United States which annulled a prior grant to the Duke of Alagon was assailed as invalid on the ground that the King, who made the treaty, was without power under the Spanish constitution to annul the grant. But the Court refused to go behind the treaty and inquire into the authority of the King under the law of Spain—and this because, as was explained in the decision, it was for the President and Senate to determine who should be recognized as empowered to represent and speak for Spain in the negotiation and execution of the treaty, and as they had recognized the King as possessing that power it was not within the province of the courts to inquire whether they had erred in that regard. And in *Fellows* v. *Blacksmith*, 19 How. 366, 372, where a treaty with the New York Indians was asserted to be invalid on the ground that the Tonawanda band of Senecas was not represented in the negotiation and signing of the treaty, the Court disposed of that assertion by saying: "But the answer to this is, that the treaty, after executed and ratified by the proper authorities of the Government, becomes the supreme law of the land, and the courts can no more go behind it for the purpose of annulling its effect and operation than they can go behind an act of Congress." The propriety of this rule and the need for adhering to it are well illustrated in the present case, where the assault on the treaty cession is made seventy years after the treaty and forty years after the last instalment of the stipulated compensation of approximately $1,200,000 was paid to the Indians.

By the Act of September 28, 1850, Congress granted to the several States the whole of the swamp lands therein then remaining unsold, c. 84, 9 Stat. 519. The first section was in the usual terms of a grant *in praesenti*, its words being that the lands described "shall be, and the same are hereby, granted." The second section charged the Secretary of the Interior with the duty of making out and transmitting to the governor of the State accurate lists and plats of the lands described, and of causing patents to issue at the governor's request; and it then declared that on the issue of the patent the fee simple to the lands should vest in the State. The third section directed that, in making out the lists and plats, all legal subdivisions the greater part of which was wet and unfit for cultivation should be included, but where the greater part was

not of that character the whole should be excluded. The question soon arose whether, in view of the terms of the first and second sections, the grant was *in praesenti* and took effect on the date of the Act, or rested in promise until the issue of the patent and took effect then. The then Secretary of the Interior, Mr. Stuart, concluded that the grant was *in praesenti* in the sense that the State became immediately invested with an inchoate title which would become perfect, as of the date of the Act, when the land was identified and the patent issued, 1 Lester's Land Laws, 549. That conclusion was accepted by his successors, was approved by the Attorney General, 9 Op. 253, was adopted by the courts of last resort in the States affected, and was sustained by this Court in many cases. *French* v. *Fyan*, 93 U. S. 169, 170; *Wright* v. *Roseberry*, 121 U. S. 488, 500, *et seq.*; *Rogers Locomotive Works* v. *Emigrant Co.*, 164 U. S. 559, 570; *Work* v. *Louisiana*, 269 U. S. —. A case of special interest here is *Rice* v. *Sioux City & St. Paul R. R. Co.*, 110 U. S. 695. The question there was whether the Act of 1850 operated, when Minnesota became a State in 1858, to grant to her the swamp lands therein. The Court answered in the negative, saying that the Act of 1850 "operated as a grant *in praesenti* to the States then in existence", that it "was to operate upon existing things, and with reference to an existing state of facts," that it "was to take effect at once, between an existing grantor and several separate existing grantees," and that as Minnesota was not then a State the Act made no grant to her.

By the Act of March 12, 1860, c. 5, 12 Stat. 3, Congress extended the Act of 1850 to the new States of Minnesota and Oregon, the material terms of the extending act being as follows:

"That the provisions of the act [of 1850] be, and the same are hereby, extended to the States of Minnesota and Oregon: Provided, That the grant hereby made shall not include any lands which the government of the United States may have reserved, sold, or disposed of (in pursuance of any law heretofore enacted) prior to the confirmation of title to be made under the authority of the said act.

"Sec. 2. That the selection to be made from lands already surveyed in each of the States including Minnesota and Oregon, under the authority of the act aforesaid, . . . shall be made within two years from the adjournment of the legislature of each State at its next session after the date of this act; and, as to all lands hereafter to be surveyed, within two years from such adjourn-

ment, at the next session, after notice by the Secretary of the Interior to the governor of the State, that the surveys have been completed and confirmed."

The words "be, and the same hereby are, extended" in the principal provision and the words "the grant hereby made" in the proviso signify an immediate extension to these new States of the grant *in praesenti* made to other States in 1850. Other parts of the proviso signify an exclusion of particular lands from the grant as extended, but not a change in its nature. Indeed, if the grant as extended were regarded as taking effect only on the issue of the patent, the proviso would be practically an idle provision; while if the grant be regarded as *in praesenti,* like the original, the proviso serves a real purpose. Of course, the principal provision and the proviso are to be read together and taken according to their natural import, if that be reasonably possible —and we think it is. Thus understood, they show that Congress, while willing and intending to extend to these new States the grant *in praesenti* made to other States in 1850, was solicitous that the reservation, sale and disposal of lands (pursuant to laws in existence at the date of the extension) should not be interrupted or affected pending the identification and patenting of lands under the grant, and that the proviso was adopted for the purpose of excluding from the grant as extended all lands which might be reserved, sold or disposed of (in pursuance of any law theretofore enacted) prior to the confirmation of title under the grant—the confirmation being the issue of patent. Many acts of that period granting lands in words importing a present grant — where the lands were to be afterwards identified under prescribed directions—contained provisions excluding lands that might be disposed of in specified ways before the identification was effected. But those provisions never were regarded as doing more than excepting particular lands from the grants; and, unless there were other provisions restraining the words of present grant, the grants uniformly were held to be *in praesenti,* in the sense that the title, although imperfect before the identification of the lands, became perfect when the identification was effected and by relation took effect as of the date of the granting act, except as to the tracts falling within the excluding provision. *St. Paul & Pacific R. R. Co.* v. *Northern Pacific R. R.,* 139 U. S. 1, 5; *Missouri, Kan-*

sas and Texas Ry. Co. v. *Kansas Pacific Ry. Co.*, 97 U S. 491, 497; *Schulenberg* v. *Harriman*, 21 Wall. 44, 60-62.

The Act of 1860 was construed as we here construe it by Secretary Delano in 1874, 1 Copp's P. L. L. 475, and by Secretary Schurz in 1877, 2 *id.* 1081; and their construction was adopted and applied by their successors up to the time of this suit,* and was approved by the Attorney General in 1906, 25 Op. 626. So, even if there were some uncertainty in the Act, we should regard this long-continued and uniform practice of the officers charged with the duty of administering it as persuasively determinative of its construction. *United States* v. *Burlington and Missouri River R. R. Co.*, 98 U. S. 334, 341; *Schell's Executors* v. *Fauche*, 138 U. S. 562, 572; *Louisiana* v. *Garfield*, 211 U. S. 70, 76; *United States* v. *Hammers*, 221 U. S. 220, 228; *Logan* v. *Davis*, 233 U. S. 613, 627.

While the grant as extended to Minnesota was a grant *in praesenti*, it was restricted to lands which were then public. The restriction was not expressed, but implied according to a familiar rule. That rule is, that lands which have been appropriated or reserved for a lawful purpose are not public and are to be regarded as impliedly excepted from subsequent laws, grants and disposals which do not specially disclose a purpose to include them. *Wilcox* v. *Jackson*, 13 Pet. 498, 513; *Leavenworth, Lawrence & Galveston R. R. Co.* v. *United States*, 92 U. S. 733, 741, 745; *Missouri, Kansas & Texas Ry. Co.* v. *Roberts*, 152 U. S. 114, 119; *Scott* v. *Carew*, 196 U. S. 100. Thus the general words of the Acts of 1850 and 1860 must be read as subject to such an exception, *Louisiana* v. *Garfield, supra*, p. 77.

The 706 acres, before described as within the Leech Lake, Winnigigoshish and Cass Lake reservations as originally created, were not public lands when the grant was extended to the State, but were then reserved and appropriated for the use of the Chippewas, and so were excepted from the grant. Probably the patenting of them to the State was a mere inadvertence, for it was not in accord with rulings of the Secretary of the Interior on the subject. But, be that as it may, the patenting was contrary to law and in derogation of the rights of the Indians under the Act of 1889. Therefore the United States is entitled to a cancelation of the patents as to

*3 L. D. 474, 476; 22 *id.* 388; 27 *id.* 418; 32 *id.* 65, 328; 37 *id.* 397.

these lands, unless the State has sold the lands, and in that event is entitled to recover their value.

The 152,124.18 acres, before described as within the cession of 1855, were not reserved or otherwise appropriated when the grant was extended, but were then public lands; and, being swampy in character, they were included in the grant and rightly patented under it, unless there be merit in some of the contentions of the part of the United States which remain to be considered.

It is said that these lands, although public when the grant was extended, were afterwards reserved and appropriated for the use of the Chippewas by treaties made before the title under the grant was confirmed by the issue of patents, and that this brought the lands within the exception made by the proviso. The contention appears to be in direct conflict with the words of the proviso which limit the exception made therein to lands reserved, sold or disposed of in pursuance of laws enacted before the grant was extended. But, by way of avoiding this conflict, it is said that the treaties were made in the exercise of a power conferred by the Constitution, which is a law adopted before the extension, and therefore that the lands must be held to have been reserved and appropriated in pursuance of a prior law in the sense of the proviso. We assent to the premise, but not to the conclusion. The words of the proviso are "in pursuance of any law heretofore enacted." We do not doubt that, rightly understood, they include a prior treaty as well as a prior statute. But we think it would be a perversion of both their natural import and their spirit to hold that they include either a subsequent treaty or a subsequent statute. Of course, all treaties and statutes of the United States are based on the Constitution; and in a remote sense what is done by or under them is done under it. But lands are never reserved, sold or disposed of directly under the Constitution, but only in pursuance of treaties made or statutes enacted under it. The words, "heretofore enacted," in the proviso are words of limitation and cannot be disregarded. They show that it is not intended to have the same meaning as if it said, "in pursuance of any law," and that what it means is any treaty or statute theretofore made or enacted.

It next is said—assuming the grant was *in praesenti* and included these lands—that in virtue of the treaty-making power the United States could, and did by the treaties of 1863, 1865 and

1867, divest the State of her right in the lands and appropriate them to the use and benefit of the Chippewas. The decisions of this Court generally have regarded treaties as on much the same plane as acts of Congress, and as usually subject to the general limitations in the Constitution; but there has been no decision on the question sought to be presented here. The case of *Rice* v. *Minnesota & Northwestern R. R. Co.*, 1 Black 358, is cited as giving some color to the contention; but in so far as it has a bearing it tends the other way. The controversy there was over the validity of an act of Congress repealing a prior act making a grant of lands to the then Territory of Minnesota in aid of the construction of a proposed railroad. The granting act, while containing words of present grant, declared that "no title" should pass to the Territory until a designated portion of the road was completed, and also that the lands should not inure to the benefit of any company constituted and organized prior to the date of that act. The Territory, anticipating a grant in aid of the undertaking, already had attempted to transfer her rights under the grant to a company incorporated theretofore; and the litigation was with that company. The repealing act was passed less than two months after the granting act and before the construction of the road was begun. The Court held that the grant was not *in praesenti,* because the words of present grant were fully overcome by other provisions; and also that the repealing act was valid, because no right had passed to the Territory or the company up to that time. But the Court deemed it proper to say (p. 373) that if the granting act had passed a present right, title or interest in the lands, the repealing act would be "void, and of no effect"; and also (p. 374) that if the granting act had operated to give to the Territory a beneficial interest in the lands, it was "clear that it was not competent for Congress to pass the repealing act and divest the title."

But if the treaty-making power be as far reaching as is contended—which we are not now prepared to hold—we are of opinion that no treaty should be construed as intended to divest rights of property—such as the State possessed in respect of these lands—unless the purpose so to do be shown in the treaty with such certainty as to put it beyond reasonable question. And, of course, the rule before stated, that where lands have been appropriated for a

lawful purpose they are to be regarded as impliedly excepted from subsequent disposals which do not specially include them, applies to treaty disposals as well as to statutory disposals.

On examining the treaties we do not find anything in them which may be said to be certainly indicative of a purpose to divest the State of her right to these lands. The areas reserved by the treaties were described in general terms — as by indicating the exterior boundaries or designating the area as a stated number of townships around a particular lake. The areas were very large —one comprising more than a million acres. No doubt the descriptions were sufficient to carry the whole of each area, if free from other claims; but there was nothing in them or in the other provisions signifying a purpose to disturb prior disposals or to extinguish existing rights under them. True, it was said that the reservations were established as "future homes" for the Indians; but this meant that the Indians were to live within the reservations, and did not have reference to any particular lands within their limits. The areas were vastly in excess of what would be needed for individual homes and farms, and included many lands wholly unfit for that purpose. The areas were dotted with lakes—some navigable—and with swamps—some almost impassable. In short, it is apparent that the treaties dealt with extensive areas in a general way and not with particular lands in a specific way. So we think they must be read as impliedly excepting the swamp lands theretofore granted to the State and leaving her right to them undisturbed.

The case of *Minnesota* v. *Hitchcock*, 185 U. S. 373, is cited as making for a different conclusion; but it does not do so. The question there was whether the State was entitled, under the school land grant, to sections 16 and 36 in the part of the Red Lake reservation which was ceded under the Act of 1889. That grant was expressed in words of promise, not of present grant. Title was to pass when the lands were identified by survey, if they were then public; and if at that time they were not public but otherwise disposed of, the State was to be entitled to other lands in their stead. The lands in question never had been public; and their cession under the Act of 1889 was not absolute or unqualified but in trust that they be sold as provided in that act for the benefit of the Indians. After that cession the lands in the ceded part of the reservation were surveyed and the government officers

took up the task of selling them in pursuance of the trust. The State then sued to establish her claim to sections 16 and 36 and to prevent their sale. The Court ruled against the State, and the following excerpt from the opinion (p. 393) discloses the grounds on which the decision proceeded:

"Congress does not, by the section making the school land grant, either in letter or spirit, bind itself to remove all burdens which may rest upon lands belonging to the Government within the State, or to transform all from their existing status to that of public lands, strictly so called, in order that the school grant may operate upon the sections named. It is, of course, to be presumed that Congress will act in good faith; that it will not attempt to impair the scope of the school grant; that it intends that the State shall receive the particular sections or their equivalent in aid of its public school system. But considerations may arise which will justify an appropriation of a body of lands within the State to other purposes, and if those lands have never become public lands the power of Congress to deal with them is not restricted by the school grant, and the State must seek relief in the clause which gives it equivalent sections."

It further is said that, assuming the State was entitled to these lands, she lost her right by failing to make selection of them within the prescribed period after they were surveyed. There is no merit in this contention. It rests on a misconception of what constitutes a selection in the sense of the requirement in the second section of the Act of 1860, before quoted. The earlier statute of 1850, in its second section, charged the Secretary of the Interior with the duty of making out and transmitting to each State accurate lists of the lands falling within the grant; and to do this it was necessary that he determine which lands were swampy and which not swampy. The Act said nothing about the evidence on which his determination should be based or the mode of obtaining the evidence. In taking up the administration of the grant, the Secretary accorded to each State a choice between two propositions: first, whether she would abide by the showing in the government surveyor's field notes; and, second, if the first proposition was not accepted, whether she would through her own agents make an examination in the field and present claims for the lands believed to be swampy accompanied by proof of their character. Some of the States elected to abide by the surveyor's field notes and others elected to take the other course. In the administration of the grant these

elections were respected and given effect, save as there were some merely temporary departures. Where the election was to abide by the field notes that, without more, was regarded a continuing selection by the State of all lands thus shown to be swampy. Where the election was to take the other course the presentation of claims with supporting proofs was regarded as a selection by the State. This was the settled practice when the Act of 1860 was passed; and the provision in its second section requiring that selection be made within a designated period is to be construed in the light of that practice. Neither that act nor the one of 1850 contained any other provision which reasonably could be said to require a selection by the State. Possibly the provision in the second section of the Act of 1850 requiring the Secretary to make out and transmit to each State accurate lists of the lands falling within the grant might be said to lay on him a duty to make selections. But, if this was the selection meant by the second section of the Act of 1860, the States could not be charged with any dereliction or neglect by reason of his delay. But we think it meant a selection by the State as that term was understood in the administrative practice. There had been objectionable delay prior to the Act of 1860 on the part of some of the States in carrying out their election to make examinations in the field and present claims with supporting proof; and the second section of that Act shows that it was specially directed against unnecessary delay in making that kind of selections. It evidently was intended to accord to those States reasonable opportunity for making necessary appropriations and to require that they then proceed diligently with the examinations in the field and the presentation of their claims and proofs.

Shortly after the Act of 1860 the propositions theretofore submitted to other States were submitted to Minnesota by the Secretary's direction in a letter from the Commissioner of the General Land Office. After stating the propositions the Commissioner said: "By the adoption of the first proposition the State will receive all the lands to which she is justly entitled, as the field notes of the survey are very full in characterizing or giving descriptions to the soil; and an important reason for doing so is that she will incur no expense in selecting or designating the lands." By an act of her legislature, passed in 1862, Minnesota

elected to abide by the surveyors' field notes; and her Governor promptly notified the Commissioner and the Secretary of that election. It has been respected and given effect, with one temporary interruption, and has been treated as a continuing selection by the State of all lands shown by the surveyor's field notes to be swampy. 2 Copp's P. L. L. 1034; 32 L. D. 65, 533-535. In 1877 Secretary Schurz, in overruling a contention like that we now are considering, held that the action of the state legislature in 1862, was an effective selection. 2 Copp's P. L. L. 1081. Similar contentions were pronounced untenable by the Attorney General in 1906, 25 Op. 626, and by the Secretary of the Interior in 1909, 37 L. D. 397. On principle, as also out of due regard for the administrative practice, we think the election by the state legislature, approved by the Governor as it was, was a timely and continuing compliance with the requirement in the second section of the Act of 1860. What would have been the effect of a failure to comply with that requirement we need not consider here.

The further contention is made that the State before the issue of the patents forfeited her right to receive them by disabling herself, through an amendment to her constitution, from complying with the provision in the Act of 1850 directing that the lands passing to the State under the grant, or the proceeds of their sale, "be applied, exclusively, as far as necessary," in effecting their reclamation by means of needed levees and ditches. The State did declare in an amendment to her constitution, adopted in 1881, that the lands should be sold and the proceeds inviolably devoted to the support and maintenance of public schools and educational institutions; but it does not follow that she disabled herself from reclaiming the lands or formed or declared a purpose not to reclaim them. On the contrary, her statutes enacted since the amendment and the published reports of her officers show that she adopted and proceeded to carry out extensive reclamation plans applicable to all swamp lands within her limits, that she and her municipal subdivisions expended many millions of dollars in this work, and that they are still proceeding with it. But, apart from this, the contention must fail. It rests on an erroneous conception of the effect and operation of the provision relied on, as is shown in repeated decisions of this Court. We think it enough to refer to *United States* v. *Louisiana,* 127 U. S.

182, for the controversy there was between the United States, the grantor, and one of the States to which the grant was made. The Court cited and reviewed the earlier cases and then said (p. 191): "Under the Act of 1850, the swamp lands are to be conveyed to the State as an absolute gift, with a direction that their proceeds shall be applied exclusively, as far as necessary, to the purpose of reclaiming the lands. The judgment of the State as to the necessity is paramount, and any application of the proceeds by the State to any other object is to be taken as the declaration of its judgment that the application of the proceeds to the reclamation of the lands is not necessary." And also (p. 192): "If the power exists anywhere to enforce any provisions attached to the grant, it resides in Congress and not in the court." The same principles have been applied in later and related cases. *Stearns* v. *Minnesota*, 179 U. S. 223, 231; *Alabama* v. *Schmidt*, 232 U. S. 168; *King County* v. *Seattle School District*, 263 U. S. 361, 364.

Finally much stress is laid on the provisions of the Act of 1889, the cession under it, and resulting rights of the Indians and obligations of the United States. But it suffices here to say that the Act of 1889 was without application to lands in which the Indians had no interest, that the cession under it was only of lands in which they had an interest, and that the resulting rights of the Indians and obligations of the United States were limited accordingly.

Our conclusion on the whole case is that the bill must be dismissed on the merits as to all the lands, excepting the 706 acres described as within the Leech Lake, Winnibigoshish and Cass Lake reservations as defined and existing in 1860, and that as to them the United States is entitled to a decree canceling the patents for such as have not been sold by the State and charging her with the value of such as she has sold. By reason of the relation in which the United States is suing, the value should be determined on the basis of the prices which would have been controlling had the particular lands been dealt with, as they shoud have been, under the Act of 1889, *United States* v. *Mille Lac Chippewas, supra*, 510.

The parties will be accorded twenty days within which to suggest a form of decree giving effect to our conclusions and to present an agreed calculation of the value of so much of the 706 acres as has been sold.